



House of Commons

Holocaust Memorial Bill Select
Committee

First Special Report of the Holocaust Memorial Bill Select Committee

First Special Report of Session
2023–24

*Report, together with formal minutes relating
to the report*

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Holocaust Memorial Bill Select Committee

The Holocaust Memorial Bill Select Committee was appointed by the House of Commons to oversee the Bill's petitioning period. The Committee provides individuals and bodies directly and specially affected by the Bill with the opportunity to object to the Bill's specific provisions and to seek its amendments.

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Publication

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Committee staff

The current staff of the Committee are: Beth Goodwin (Committee Operations Manager), Leoni Kurt (Committee Clerk), Justin Leslie (Counsel for Domestic Legislation), Adam McGee (Head of Media (Procedure)), and Tiago Wist (Committee Operations Officer)

Contacts

All correspondence should be addressed to the Clerk of the Holocaust Memorial Bill Select Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 3864; the Committee's email address is hmbcommittee@parliament.uk

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Summary

The Holocaust Memorial Bill was introduced in the House of Commons on 23 February 2023 by the Government, and was considered to be *prima facie* hybrid in the opinion of the Clerk of Legislation. The Bill was subsequently referred to the Examiners of Petitions for Private Bills, and they reported the Bill to be hybrid, which would therefore require a select committee stage to hear petitions against the Bill. The Bill was referred to us by the House of Commons following the Second Reading debate on 28 June. The House agreed an Instruction, which set out those matters that the Select Committee can consider.

The building of a Holocaust Memorial is an important and sensitive matter. It is of great personal significance to many people, and a matter of national importance. We are also aware of the meaning that this project holds for the Jewish community in particular, and we are particularly grateful to the Holocaust survivors who explained their perspectives to us, whilst taking on the role of witnesses.

We are of the opinion that the Promoter's decision not to challenge the right to be heard of petitioners should not be used as a precedent for future hybrid or private bills. This put the Committee in a difficult position in judging to what extent discussion ought to be permitted on matters that did not directly and specially affect the petitioners.

Having listened to the objections made by petitioners, and considered the options that appear to be available to us, we have decided not to amend the Bill. Our primary reason is that the suggestions put forward would either:

- engage planning considerations, in contravention of the Instruction agreed by the House; or
- focus on the principle of the Bill, which would be a course of action out of scope of this Committee.

Whilst we do not wish to amend the Bill, there are certain matters of concern which we wish to raise, having considered the content of the hearings. These are:

- A full consultation at the site selection stage would have lent more legitimacy to the final site decision, and it is quite possible that the Government would have found out about the London County Council (Improvements) Act 1900 at an earlier stage. It seems odd that the views of the property consultants were not sought, and a full appraisal and consultation not carried out.
- It seems to us that the true cost of this project has not been established. We note that it is not unusual for the costs of major projects to increase with time, due to unforeseen building issues, the ambition of the project, and increases in inflation. The longer that building works go on, the more expensive this project will become. On this basis, we urge the Government to consider how ongoing costs are likely to be paid for and whether it offers appropriate use of public money.

- Clear proposals should be published which show what steps the Government intends to take around the security of any memorial and learning centre. Such considerations ought to be undertaken expeditiously before any planning application is progressed.

1 Introduction

Consideration of the Holocaust Memorial Bill

Instruction to the Committee

1. The Holocaust Memorial Bill¹ was introduced to the House of Commons on 23 February 2023 by the Government, and was considered to be *prima facie* hybrid in the opinion of the Clerk of Legislation. The Bill was subsequently referred to the Examiners of Petitions for Private Bills, and they reported the Bill to be hybrid, which would therefore require a select committee stage to hear petitions against the Bill.² The Bill was referred to us by the House of Commons following the Second Reading debate on 28 June. The House agreed an Instruction, which sets out those matters that the Select Committee can consider. Further information about the history of the proposed Holocaust Memorial and Learning Centre is available via the House of Commons library.³

2. The building of a Holocaust Memorial is an important and sensitive matter. It is of great personal significance to many people, and a matter of national importance. We are also aware of the meaning that this project holds for the Jewish community in particular, and we are particularly grateful to the Holocaust survivors who explained their perspectives to us, whilst taking on the role of witnesses. That is why it is so important that the process for decision-making on the proposed Holocaust Memorial and Learning Centre is clear and transparent. We understand that, at the best of times, hybrid bill procedure can come across as complex and challenging. One of the main points that we wish to deliver in this report concentrates on how the Government could have managed the petitioning period in a better manner.

3. During the petitioning period, 10 petitions were received, of which two were withdrawn at a later stage.⁴ To prepare for the hearings we visited Victoria Tower Gardens, to familiarise ourselves with the site which is under consideration in Clause 2 of the Bill. We subsequently heard the opening statement from the Promoters, who were represented by Christopher Katkowski KC, Counsel, and Richard Turney, Counsel, followed by hearings on 8 petitions, concluding with closing remarks by Counsel for the Promoters and the petitioners. We would like to thank everyone who contributed to this process.

Hybrid nature of the Bill

4. The Promoter maintained throughout the proceedings that Clause 1, *Expenditure relating to a Holocaust Memorial and Learning Centre*, is not hybrid, and therefore could not be considered by the Committee.⁵ This characterisation, we conclude, is not correct.

5. A hybrid bill is a public bill to which the Private Business Standing Orders apply. Those standing orders apply where a public bill affects the interests of members of a category differently to those within the same category. The Examiners found that those

1 [Holocaust Memorial Bill](#), [Bill 7 (2023–24)]

2 Examiners of Petitions for Private Bills, [Holocaust Memorial Bill: Report from the Examiners and Statement of Reasons](#) ([parliament.uk](#)), Session 2022–23, HC1403, Para 13

3 [Holocaust Memorial Bill](#), Research Briefing, CBP 9741, House of Commons Library, 23 June 2023

4 [Committees.parliament.uk](#), Bill petitions

5 [Letter from the Promoter](#), Para 1a, dated 5 February 2024

standing orders apply to this Bill due to the effect of Clause 2, *Removal of restrictions in relation to certain land*.⁶ As a result of that finding, the standing orders provide an opportunity for petitions to be heard that seek to address or mitigate the impact of the bill.

6. Whilst the Committee accepts that in practice its focus was always likely to be Clause 2, it is wrong in principle to describe a bill as being hybrid in-part because the Private Business Standing Orders apply to the whole of the bill.

Precedents around parks

7. Some believe this legislation could set a precedent of lifting protections on parks. There is some concern that similar legislation might be used in the future to disapply this type of regulation. We would strongly advise future administrations to ensure that people who would be directly and specially affected by such legislative changes in the future are provided with the right to be heard on relevant legislation.

6 Examiners of Petitions for Private Bills, [Holocaust Memorial Bill: Report from the Examiners and Statement of Reasons \(parliament.uk\)](#), Session 2022–23, HC1403, para 13

2 Procedural Matters

The Instruction

8. The Bill received a Second Reading in the House of Commons on 28 June 2023, and the House agreed to an Instruction to the Committee considering the Bill, tabled by the Government. The text of the substantive part of the Instruction is:

(1) 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.

(2) 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.

(3) Given paragraph (2) and 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 should be given for the memorial and centre for learning, or the terms and conditions on which they should be given.

(4) The Committee shall have power to consider any amendments proposed by the member in charge of the Bill which, if the Bill were a private bill, could not be made except upon petition for additional provision.

(5) Paragraph (4) applies only so far as the amendments proposed by the member in charge of the Bill fall within the principle of the Bill as provided for by paragraphs (1) and (2) above.⁷

9. The Instruction deemed matters concerning planning permission and necessary consents to be beyond our focus, leaving us with a very limited remit compared with what we might have considered. We noted that during the Second Reading debate, a number of Members attempted to clarify what this Committee might be able to hear petitions

on, in light of the Instruction. For example, Sir Peter Bottomley MP asked, “if someone wants to argue in front of the Committee that it would be better to have the basement box somewhere else and just have the memorial, would that petition potentially be heard by the Committee?”, with Rt Hon Michael Gove MP, Secretary of State for the Department for Levelling Up, Housing and Communities, confirming that it would be a matter for the Committee.⁸ Sir Edward Leigh queried that: “It is accepted that there is a principle to [build a] memorial, so what about my point on having an overground memorial—like other memorials—but not an underground learning centre? Will the Committee still be able to consider such a detail?”⁹ The Minister replied that “the Committee can consider the extent and any conditions on the memorial in Victoria Tower Gardens”.¹⁰

10. The interpretation of the Instruction was raised in discussion during proceedings. It was at this point that the Promoter told us that the Secretary of State’s statement¹¹ could be interpreted as the following: “he meant that it would be a matter for the Committee to consider whether [a given issue] fell into scope”.¹²

11. The Second Reading debate is an important point, where Members are invited to discuss the principle of a bill and decide whether to agree to its progress to the next stage. The Minister’s assurances are of utmost importance to Members in deciding whether to support the Bill. We were therefore surprised to read the Promoter’s arguments in their letter to the Committee of 5 February 2024, which stated that:

We do not consider that the Ministerial statements made during the Second Reading of the Bill are relevant to the Committee’s interpretation of the Instruction, because it is the Instruction itself which determines the matters that the Committee may consider. Statements made by any one Minister giving their own interpretation of the meaning or effect of the proposed Instruction cannot possibly change the meaning and effect of the Instruction as given.¹³

12. The notion that we should disregard anything that a Minister says in debate when trying to persuade the House to agree to something is wrong. What is further troubling is that the Government seems to hold two quite opposing views about which matters fell within the scope of our committee.

13. There was ambiguity around what the Committee could consider, with the Ministers’ interpretation of the Instruction agreed by the House seemingly at odds with the view put to us by the Counsel for the Promoters. Although the Instruction stated that planning permission and necessary consents would be outside our remit, were we to have followed this to the letter we would have not been able to hear any arguments around Clause Two:

8 HC Deb, 28 June 2023, [col 369](#) [Commons Chamber]

9 HC Deb, 28 June 2023, [col 369](#) [Commons Chamber]

10 HC Deb, 28 June 2023, [col 369](#) [Commons Chamber]

11 HC Deb, 28 June 2023, [col 370](#) [Commons Chamber]: After the Second Reading of the Bill in the House of Commons on 28 June 2023: “(Peter Bottomley MP) I ask this explicitly: can either the Secretary of State or the Minister stand up and tell me now that, if someone wants to argue in front of the Committee that it would be better to have the basement box somewhere else and just have the memorial, would that petition potentially be heard by the Committee? (Michael Gove MP) I think it would be a matter for the Committee.”

12 [Letter to the Chair from the Promoter](#), dated 5 February; At this point, we do not wish to enter into a deeper discussion on the scope of this Committee’s role, but note that this issue became a contested matter during proceedings.

13 [Letter to the Chair from the Promoter](#), dated 5 February

Removal of restrictions in relation to certain land

Section 8(1) and (8) of the London County Council (Improvements) Act 1900 15 does not prevent, restrict or otherwise affect the carrying out of any of the activities described in paragraphs (a) to (c) of section 1(1) on, over, under or otherwise in relation to the land described in section 8(1) of that Act.

Planning and the Instruction

14. We found it concerning that the Instruction tabled by the Government deemed planning permission and related matters to be out of scope, yet the Bill itself, if approved, would impact the planning process. The Bill removes obstructions to a memorial being built in Victoria Tower Gardens: this quite clearly impacts the planning process, as it would remove the obstruction which blocks the current proposals. Some of the petitioners made the point that certain matters that a planning inquiry might consider arguably could be deemed to be within the remit of the Committee. For example, in his letter to us, Mr Doctor KC, Counsel for four of the petitioners, stated that:

just because a matter could in theory be raised before a planning inquiry is not a reason, of itself, that the issue cannot be considered at all by the [Select Committee]. There is nothing in the wording of the Instruction (still less the Bill) which leads to that conclusion.¹⁴

15. We are satisfied that we have respected the decision of the House, which agreed to the Instruction motion, and we will not be making amendments to the Bill which have been prohibited by that Instruction.

Right to be heard challenges

16. The hybrid bill procedures provide a formal route for the Promoter to object to a petition being heard.¹⁵ In relation to the Holocaust Memorial Bill, the Promoter informed the petitioners that their right to be heard would not be challenged due to matters of expediency:

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 that [sic] 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,

14 Mr Brian Doctor KC, [Petitioners’ Note on Scope of the SC’s role](#), published 9 February 2024, paragraph 13

15 See Private Business Standing Orders: [SO2019Priv.pdf \(parliament.uk\)](#); *Erskine May*, 25th Edition (London, 2019) Paragraph 30.67, [Proceedings in committee - Erskine May - UK Parliament](#)

Housing and Communities’ website on 4 July 2023.¹⁶ 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 subsequently deposited, each of which has been considered in detail by the Promoter. The Promoter has had regard to his July note, and whilst he does not consider that the information provided in a number of the petitions is sufficient to prove that the property or interests of the petitioner are directly and specially affected by the Bill, he has decided in the interests of expediency and the efficient use of the Committee’s time not to challenge the right to be heard of any of the petitioners.¹⁷

17. We are not convinced that “expediency” has been helped by the Promoter’s decision not to challenge the right to be heard of certain petitioners. Conversely, it has been the impetus for an extension to proceedings. We are not entirely convinced that all the petitioners would have been heard had the right to be heard challenges gone ahead. This has almost certainly led to a significant amount of time being devoted to hearing petitions, which might have been suitably curtailed by more succinct right to be heard hearings.

Right to be heard

18. The purpose of the Select Committee is to hear the objections of petitioners, with the matter of whether those petitioners were directly and specially affected by the Bill having been considered at an earlier stage. The Promoter’s decision put us in the difficult position of hearing cases which may have been deemed irrelevant to our considerations at an earlier stage. We deprecate the Promoter’s approach to this, since some petitioners have been fairly open about not being personally impacted by the Bill: one of the petitions contained a statement from the petitioner explaining that: “I am not directly affected [but] I go through Victoria Gardens every day when the House is sitting”.¹⁸

19. The unhelpfulness of the Promoter’s decision was further compounded by their letter to us of 5 February, which stated that:

The remit of the Committee is a key consideration but in addition, despite the absence of any challenges to the right to be heard, the essence of the hybrid bill process is still that petitioners must make out a case to the Committee that they (a) have a local or private interest relating to VTG and the disapplication of the 1900 Act proposed by clause 2 of the Bill; (b) that the local or private interest is specially and directly affected by clause 2; and that (c) clause 2 needs amending to protect that interest. The Committee must have this at the forefront of its mind throughout, i.e. the decision not to challenge the right to be heard of petitioners does not then mean that petitioners are able to raise with the Committee any issue they please. Not only must that issue be within the scope of the Committee but it must also come from a petitioner whose local or private interests are specially and directly affected by clause 2 of the Bill.¹⁹

16 Department for Levelling Up, Housing and Communities, [Guidance: Holocaust Memorial Bill the right of petitioners to be heard by the house of commons select committee: note of promoter’s position](#), published 4 July 2023

17 [Correspondence from the Promoter to the Committee](#), dated 14 December 2023

18 [Petition HMB 003 \[The Rt Hon the Lord Blencathra PC\]](#)

19 [Letter from the Promoter](#), dated 5 February 2024

At no point did the Promoter make submissions to us about which petitioners were specially and directly affected by the Bill.

Taking decisions on right to be heard

20. It looks like the Promoter has put the onus of judging the right to be heard of petitioners entirely on the shoulders of this Committee, and it has hoped that such a decision would be taken during the hearings, once the petitioners already expect to speak on the matters raised in their petitions. The Promoter assumed that our assessments would take place during hearings, without providing a chance for this important decision to have been considered at the appropriate procedural stage, which they chose to forego. It is very difficult for us to make a decision of that nature without being presented with the arguments from both sides: in each case, arguments should be presented by the Promoter and petitioner regarding right to be heard challenges. We would not presume to be in a position to take such decisions, without hearing the relevant arguments.

Scope and right to be heard challenges

21. By the Promoter's decision to avoid challenging petitioners' rights to be heard, we have been left open to hearing petitioners speak on matters that bear no impact on the individual/organisation at hand, but rather the impact on the public in general. Had the right to be heard challenges gone ahead, it would have clarified the scope of this Committee to be focused on those directly and specially affected by the Bill and, in all likelihood, reduced the level of discussion around the principle of the Bill. We recognise that Erskine May does provide for the Committee to decide "the limits of the right of each petitioner to have their petition considered",²⁰ and the Chair did, at certain points, request that witnesses keep the discussion within the scope of the Committee.

22. The Promoters took a very restrictive approach to our remit, tabling a very narrow Instruction. Yet, they took a very permissive approach to petitioners' right to be heard, by choosing to forego challenges. This put the Committee in a difficult position in judging to what extent discussion ought to be permitted on matters that did not directly and specially affect the petitioners. On balance, we believe that there was benefit in giving petitioners an opportunity to deliver their arguments on this matter of great sensitivity and importance, even though some petitioners were not directly or specially affected by the Bill. However, we do not think that a future hybrid bill Committee should be put in this position again, and we urge Promoters of future hybrid bills to engage the right to be heard procedures at the outset.

23. We are of the opinion that the Promoter's decision not to challenge the right to be heard of petitioners should not be used as a precedent for future hybrid or private bills.

Amendments to the Bill

24. As mentioned earlier, the Instruction that has been agreed by the House of Commons is very narrow. It was not clear which types of amendments might be available to us should we conclude that some adjustments ought to be made to the Bill. We asked Counsel for

20 *Erskine May*, 25th Edition (London, 2019) Paragraph 30.67, [Proceedings in committee - Erskine May - UK Parliament](#)

the Promoter, Mr Katkowski KC, about the types of amendments that he perceived to be in scope, and he explained that “temporal” and “territorial” issues would be in scope for amendment.²¹ The Promoter helpfully outlined the types of amendments they thought would be in scope during the opening statement on 10 January²² (they helpfully provided arguments against making those amendments in their letter to us dated 5 February).²³ However, the problematic aspects of those suggestions were pointed out in a letter from Mr Doctor KC, which highlighted that the Promoter’s suggestions did not seem to fit with the Instruction:

Indeed, the SoS himself recoils from the deeply unattractive consequences of his own argument by making, in his terms, unprincipled concessions relating to allowing “territorial” or “temporal” issues to be discussed, with which he hopes to soften the impact of his argument. They are indeed “concessions”, because if he is right that the Instruction means that the [Select Committee] cannot hear a petition relating to the location in [Victoria Tower Gardens] of a [Holocaust Memorial] and [Learning Centre], or any issue which could in theory be the subject of a planning application, how does that leave room to consider or discuss (as he has conceded can be discussed, and indeed proposed) limiting the building of the structures to only part of [Victoria Tower Gardens] (e.g. the area edged in blue on a map)? That would just as much fall foul of his interpretation of the “Instruction” as suggesting that the [Learning Centre] should not be given space in [Victoria Tower Gardens], but built elsewhere.²⁴

25. Upon reflection on those arguments, we remain doubtful about whether amendment of a “territorial” or “temporal” nature would be congruent with the Instruction since such amendments could impact a future planning inquiry, including planning permission and necessary consents.

26. **Having listened to the objections made by petitioners, and considered the options that appear to be available to us, we have decided not to amend the Bill. Our primary reason is that the suggestions put forward would either:**

- **engage planning considerations, in contravention of the Instruction agreed by the House; or**
- **focus on the principle of the Bill, which would be a course of action out of scope of this Committee.**

Reference to current planning proposals

27. We noted the Promoter’s arguments that the Bill had been drafted in such a way that the “fundamental purpose of the Bill, its underlying principle and the public policy it expresses, is to remove the statutory obstruction of section 8” of the London County

21 Minutes of Oral Evidence, [Paragraph 100](#), 10 January 2024

22 Minutes of Oral Evidence, [Paragraph 100](#), 10 January 2024

23 [Letter from the Promoter](#), dated 5 February 2024

24 Mr Brian Doctor KC, [Petitioners’ Note on Scope of the SC’s role](#), published 9 February 2024, Paragraph 17; NB: the arguments presented by Mr Doctor KC in general argued for an interpretation of scope which would allow for greater consideration of planning matters than the Promoter’s view.

Council (Improvements) Act 1900.²⁵ The Promoter pressed the point that the Bill, as drafted, did not provide planning permission for the current proposals, stating that the Bill “is not authorising the building of the memorial and learning centre”.²⁶ We also note that the Bill does not refer specifically to particular plans.

28. What seemed to cause concern was the case presented by Mr Doctor KC, whereby the argument that Mr Katkowski KC presented would mean that “what the Bill is concerned with is *‘the’* Holocaust memorial and learning centre, which the Secretary of State is promoting, and which has been the subject of a planning application”.²⁷

29. During our considerations on whether the Bill ought to be amended, it remained unclear to us whether such an amendment ought to refer to “*the*” current proposals, or indeed any proposal for a memorial and / or learning centre. One of our concerns was that, without being attached to a specific plan, lifting the obstructions would risk providing a blank cheque for any building in Victoria Tower Gardens.

30. In considering how such an amendment might be drafted, we considered the points raised by the Promoter, who seemed to suggest that we could link an amendment to the current proposals, and a relevant plan:

Relevance of current proposals. The Committee should have regard to the Promoter’s current proposals for the construction of a Holocaust Memorial and Learning Centre (HMLC) in Victoria Tower Gardens (VTG). Whilst clause 1 is drafted such that the HMLC is not the only proposal that public money could be spent on, it is the only HMLC proposed by the Promoter at this time.

Restrictions on clause 1. As set out above, any amendments to the Bill must preserve the ability for the Secretary of State to incur expenditure for the construction of the HMLC in VTG as currently envisaged. To make an amendment to the Bill that prevented this would clearly go against the principle of the Bill, and as such would fall outside of the scope of the Committee to consider.²⁸

31. The Promoter suggested referring to “current proposals”, thereby appearing to suggest that the Bill was drafted in reference to that particular planning application. Nevertheless, we note that when we asked Mr Katkowski KC, representative for the Promoter, about what sort of measurements we should use, if the Committee was minded to put an amendment down, as he asked us not to consider particular square footages, he replied:

Do not use any measurements at all; just refer to a plan. That is what our assurance does—the draft assurance that you have at appendix 5 to the letter. Just refer to a plan. The plan is measurable, obviously—you can scale it—and the plan shows the extent of our project.²⁹

32. Whilst we appreciate the guidance provided by the Promoter on this query, we ultimately decided not to request amendments which required reference to a plan.

25 Minutes of Oral Evidence, [Paragraph 126](#), 10 January 2024

26 Minutes of Oral Evidence, [Paragraph 58](#), 10 January 2024

27 Minutes of Oral Evidence, [Paragraph 18](#), Tuesday 23 January 2024

28 [Letter to the Chair from the Promoter](#), dated 5 February 2024

29 Minutes of Oral Evidence, [Paragraph 164-165](#), 6 February 2024

33. It is curious that the Promoter suggested that we could refer to a plan in a suggested amendment. Were we to include a plan, such an action would surely impact the planning process. The invitation to impact the planning process seems not to have been extended to the petitioners. For example, Mr Richard Buxton, representative of the Buxton Family and Thomas Fowell Buxton Society petition, wished to propose an amendment that would have “Provided always that any such activities shall not cause any degree of harm either actual or to the setting of any other memorial in Victoria Tower Gardens”.³⁰ The Promoter responded to the suggestion with, “You would, in effect, cheat the planning system of its ability to weigh harms against benefits, wouldn’t you?”³¹ It seems odd that the Promoter has been keen to ensure that the petitioners’ suggestions be disregarded on the basis of the impacts on the planning decision. Yet, for the Committee, the Promoter attempted to find ways that we as the Committee could impact the planning process.

34. We are not convinced, however, that an amendment to the Bill, which contains a reference to a site plan, would be congruent with the spirit of the Instruction. We think this should be the case whoever the author of the amendment might be.

30 [Petitioner’s exhibits](#): Richard Buxton, slide 21

31 [Minutes of Oral Evidence, Paragraph 168](#), 23 February 2024 [Mr Katkowski KC]

3 Matters related to the current proposals for a Holocaust Memorial

35. Whilst we do not wish to amend the Bill, there are certain matters of concern which we wish to raise, having considered the content of the hearings.

Site consultation

36. Some of the people that participated in our proceedings described the site decision as a “moment of genius”.³² We were surprised to hear that the choice of Victoria Tower Gardens as the site for the current proposals had not been arrived at via a thorough consultation. Instead, we understand that the Prime Minister’s Holocaust Commission Report identified a shortlist of sites in 2015, but that Victoria Tower Gardens did not appear on that list.³³ The UK Holocaust Memorial Foundation (UKHMF) was subsequently established as an independent body to oversee the Government’s delivery of the commission’s recommendations. The UKHMF stated that it would “continue to explore these sites in greater detail”, and that the selection process was “also open to any other potential site”.³⁴ It was explained by the Promoter that 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.³⁵

We understand that Victoria Tower Gardens as the site for a memorial had originally been identified by a member of the UKHMF in October 2015, with Millbank suggested as a suitable site for a learning centre.³⁶ Subsequently, the UKHMF recommended Victoria Tower Gardens to the Government in January 2016, and the decision was announced on 27 January 2016.³⁷ The Promoter informed us that “After further technical analysis, the Foundation proposed that the Learning Centre should be constructed beneath the Memorial at Victoria Tower Gardens”.³⁸

37. The Promoter wrote to us about the UK Holocaust Memorial Foundation’s 2015 decision-making process on site selection. It stated that:

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

32 Minutes of Oral Evidence, [Paragraph 47](#), 23 January 2024 [Mr Doctor KC]

33 The Prime Minister’s Holocaust Commission Report, [Britain’s Promise to Remember](#), published January 2015, page 16

34 UK Holocaust Memorial Foundation (UKHMF), [National Memorial and Learning Centre: Search for a Central London site](#), published September 2015, p2

35 [Letter to the Chair from the Promoter](#), dated 29 January 2024

36 Lord Andrew Feldman, [Letter to John Whittingdale MP](#), published 26 October 2015

37 [Press release: PM: Holocaust memorial will stand beside Parliament as permanent statement of our British values](#), published 27 January 2016

38 [Promoter’s exhibits](#), published 10 January 2024

Victoria Tower Gardens, as well as the absence of any alternative schemes, or alternative locations meeting the Foundation’s aspirations, a general consultation exercise could not have been meaningful”.³⁹

However, Mr Doctor KC, representative for petitioners, informed us that: “It was not a site chosen by the property consultants employed by the Holocaust Foundation, who had been set up to implement the Holocaust Commission’s vision”. He continued by saying that after the site had been identified, the suggestion had been “put before the commission, which simply decided that it would be suitable to locate it there, without asking the consultants to study it with the other 29 sites that were identified”.⁴⁰

38. A full consultation at the site selection stage would have lent more legitimacy to the final site decision, and it is quite possible that the Government would have found out about the London County Council (Improvements) Act 1900 at an earlier stage. It seems odd that the views of the property consultants were not sought, and a full appraisal and consultation not carried out.

Costs

39. Clause 1 of the Bill provides for the Secretary of State to incur expenditure relating to a Holocaust Memorial and Learning Centre.⁴¹ We note that one of the petitioner’s suggestions for how the Bill might be amended would be “not to cost more than £X”.⁴²

40. During proceedings, we heard serious concerns about the costs, particularly around the Learning Centre. Sir Peter Bottomley MP referred to a National Audit Office report, which stated that:

The forecast cost in the April 2019 Outline Business Case increased from £50 million to £89 million because of the expanded size of the Memorial and Learning Centre, the inclusion of VAT, additional security measures and a higher specification of fit-out. The Department added contingency for risk and uncertainty to the £89 million. In the Department’s July 2021 Full Business Case, forecast costs increased to £99.7 million, plus contingency.⁴³

He went on to explain that

on the day of the debate in the House of Commons, the Minister did not refer to the fact that she had issued a written ministerial statement saying that the cost had gone up in the previous 12 months from £102 million to £137 million, an increase of over 33% in a year, with money they didn’t have.⁴⁴

41. Mr Dorian Gerhold, a witness called by Sir Peter Bottomley, stated:

39 [Letter from the Promoter to the Chair](#), dated 29 January 2024

40 Minutes of Oral Evidence, [Paragraph 76](#), 6 February 2024 [Mr Doctor KC]

41 [Holocaust Memorial Bill](#), [Bill 7 (2023–24)]

42 Mr Brian Doctor KC, [Petitioners’ Note on Scope of the SC’s role](#), published 9 February 2024, Paragraph 10.1

43 Report by the Comptroller and Auditor General, [Investigation into the management of the Holocaust Memorial and Learning Centre](#), Department for Levelling Up, Housing & Communities, Session 2022–23, HC579, published 5 July 2022

44 Minutes of Oral Evidence, [Paragraph 10](#), 17 January 2024, [Sir Peter Bottomley MP]

there seems to have been no consideration of the cost of an underground learning centre. In 2015 the Prime Minister allocated £50 million for the memorial, the learning centre and the proposed endowment fund for holocaust education. Nine years later, the Government's promise of an endowment fund has not been honoured, the learning centre has been descope and yet it was announced, as you heard from Sir Peter, in June that the cost of what remains had risen as at March last year to £139 million plus contingencies. Sir Peter has referred to the NAO report, which identified major risks and, like most of HS2, the project was classified as unachievable by the Infrastructure and Projects Authority in its 2022–23 report. So whatever Government is elected later this year, probably, it would need to find that funding plus up to £8.5 million of running costs at a time of great pressure on public spending, whereas, as we have heard, better and cheaper alternatives are possible.⁴⁵

We heard further concerns about costs from Dr Donald Peck (representative of the Thorney Island Society and Residents of Westminster), who told us that:

there are real concerns about whether the entire [Learning Centre] project is in fact viable. It is not just the building costs which have now, if you include contingency, risen to over £150 million, most of which is public money. It is also the running costs: £6 million a year we are told they cost, but there is a lot of flexibility around that number, which we will hear more about at some point, not yet. The LC will not charge for entrance and therefore will not generate any revenue of any significance. The planning inquiry was told it was £6 million a year; no breakdown was given, but that will also have increased and it will continue, of course, in perpetuity. So very robust governance and financing arrangements are essential to manage all this. That, of course, is not something that can be addressed in the planning process at all but it should be a central concern for Parliament.⁴⁶

42. We are particularly concerned about the costs around security of a Memorial and Learning Centre, which would need to be taken into account. Security is likely to be required around the clock, and this is, as yet, an unknown cost. Security is likely to become an expensive additional cost, which we urge the Government not to overlook.

43. It seems to us that the true cost of this project has not been established. We note that it is not unusual for the costs of major projects to increase with time, due to unforeseen building issues, the ambition of the project, and increases in inflation. The longer that building works go on, the more expensive this project will become. On this basis, we urge the Government to consider how ongoing costs are likely to be paid for and whether it offers appropriate use of public money.

Security concerns

44. In light of current circumstances, some consideration needs to be given to the security of any major Holocaust memorial. Lord Carlile, the Independent Reviewer of Terrorism Legislation from 2001–11, stated in his petition that “I believe that the site proposed a very

45 Minutes of Oral Evidence, [Paragraph 239](#), 17 January 2024

46 Minutes of Oral Evidence, [Paragraph 55](#), 6 February 2024, [Dr Peck]

real terrorism risk”, whilst Lord Blencathra’s petition raised concerns around security and discussed the risks posed by terrorism.⁴⁷ These matters ought to be taken seriously by the Government. Lord Carlile of Berriew suggested that “various relevant security authorities should be consulted”, although we feel that is a matter for the Government to pursue.⁴⁸

45. Clear proposals should be published which show what steps the Government intends to take around security of any Memorial and Learning Centre. Such considerations ought to be undertaken expeditiously before any planning application is progressed.

Holocaust Memorial and Learning Centre

46. During the hearings, petitioners consistently suggested that there ought to be a decoupling of a Holocaust Memorial and the proposed Learning Centre. For example, Mr Doctor KC, Counsel for four of the petitioners, stated that: “To build an above-ground memorial to the Holocaust can be achieved without the huge excavation”.⁴⁹ We are aware, however, that we haven’t had the opportunity to hear extensive justifications for the combined proposal of a Holocaust Memorial and Learning Centre, due to the nature of this Committee being established to hear petitioners against the Bill rather than to hear the arguments in support, which may hail from a vast array of supporters. We return again to the lack of site consultation: had it taken place, such arguments in support of current proposals could have been widely advertised.

47 [Petition HMB-003](#) [The Rt Hon the Lord Blencathra PC]

48 Minutes of Oral Evidence, [Paragraph 376](#), 17 January 2024

49 Minutes of Oral Evidence, [Paragraph 81](#), 6 February 2024, [Closing submissions by Mr Doctor]

4 Final thoughts

Assessment of the Promoter's handling of the hybrid bill proceedings

47. We wish to press the point that the course of proceedings, which took place during the petitioning and Select Committee stage, should not be used as a precedent for future hybrid bills. It is our opinion that the Government could have undertaken a different course of action, at various stages, which would have been more in keeping with the standard practice of procedure in relation to hybrid bills. The Government could have:

- tabled a wider Instruction for the Committee, without limitations being placed on the topic of planning permissions and necessary consents, particularly since the Bill as drafted would impact the planning process. This course of action would have been welcomed by petitioners, to whom planning matters are of deep concern;
- drafted the Bill in such a way as to identify Victoria Tower Gardens as the site under consideration. We note that during the hearings there has been some conflation between the building of “a” memorial, and “the” memorial under current proposals, the definite and indefinite article being used interchangeably in discussion even by the Promoter. This seems to indicate that, although the Bill and Instruction had been drafted carefully, the actual topic of discussion (despite the Promoter's objections) may in fact have been the particular memorial under current proposals. This lack of clarification would have been avoided had the Bill simply referred only to the current proposals;
- the Promoters ought to have engaged the right to be heard process, a procedure available to them, in order to avoid the Committee having to hear from petitioners who are not specially and directly affected by the Bill. It is essential that the relevant procedures be engaged when future hybrid bill committees are established, so that future committees are able to conduct the business for which they have essentially been established; and
- taken a more proactive approach with petitioners, to provide assurances and undertakings in advance of hearings (although we understand that some attempts did indeed take place).

48. In the future, it is important that the Government engages positively with the public. To a lay person who is distressed by proposals, hybrid bill procedure looks like a difficult process. Again, we encourage future Promoters and the Government to consider the experience of petitioners when engaging with the hybrid bill process.

49. Ministers need to be careful with their wording to ensure consistency with Instruction motions that have been tabled in the name of the Government. They must be mindful in what they say, for the avoidance of doubt.

Conclusions and recommendations

Procedural matters

1. We are of the opinion that the Promoter's decision not to challenge the right to be heard of petitioners should not be used as a precedent for future hybrid or private bills. (Paragraph 23)
2. Having listened to the objections made by petitioners, and considered the options that appear to be available to us, we have decided not to amend the Bill. Our primary reason is that the suggestions put forward would either:
 - engage planning considerations, in contravention of the Instruction agreed by the House;
 - focus on the principle of the Bill, which would be a course of action out of scope of this Committee. (Paragraph 26)

Matters related to the current proposals for a Holocaust Memorial

3. A full consultation at the site selection stage would have lent more legitimacy to the final site decision, and it is quite possible that the Government would have found out about the London County Council (Improvements) Act 1900 at an earlier stage. It seems odd that the views of the property consultants were not sought, and a full appraisal and consultation not carried out. (Paragraph 38)
4. It seems to us that the true cost of this project has not been established. We note that it is not unusual for the costs of major projects to increase with time, due to unforeseen building issues, the ambition of the project, and increases in inflation. The longer that building works go on, the more expensive this project will become. On this basis, we urge the Government to consider how ongoing costs are likely to be paid for and whether it offers appropriate use of public money. (Paragraph 43)
5. Clear proposals should be published which show what steps the Government intends to take around security of any Memorial and Learning Centre. Such considerations ought to be undertaken expeditiously before any planning application is progressed. (Paragraph 45)

Annex: Petitions Received

All petitions received can be viewed on the [Holocaust Memorial Bill Select Committee - Bill petitions](#) page.

Petition number	Petitioner	Petition status
HMB-001	Sir Peter Bottomley MP	Heard
HMB-002	Mr Clive Stanley-Williams	Withdrawn
HMB-003	The Rt Hon David Lord Blencathra PC	Heard
HMB-004	Nicholas Brown	Heard
HMB-005	Lord Carlile of Berriew CBE KC	Heard
HMB-006	Baroness Deech et al	Heard
HMB-007	The Thorney Island Society and Residents of Westminster	Heard
HMB-008	Buxton Family and Thomas Fowell Buxton Society	Heard
HMB-009	London Historic Parks & Gardens Trust	Heard
HMB-010	Jonathan Lass	Withdrawn

Formal minutes

Wednesday 17 April 2024

Members present

John Stevenson, in the Chair

Lia Nici

Angela Richardson

Karl Turner

Draft Report (*First Special Report to the Holocaust Memorial Bill Select Committee*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 49 read and agreed to.

Summary agreed to.

Resolved, That the Report be the First Special Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Adjournment

The Committee adjourned.

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Wednesday 10 January 2024

Christopher Katkowski KC, Counsel at Department for Levelling Up, Housing and Communities (DLUHC); **Richard Turney**, Counsel at Department for Levelling Up, Housing and Communities (DLUHC)

[Q1-156](#)

Tuesday 16 January 2024

Nicholas Brown, Petitioner; **Christopher Katkowski KC**, Counsel at Department for Levelling Up, Housing and Communities (DLUHC); **Richard Turney**, Counsel at Department for Levelling Up, Housing and Communities (DLUHC)

[Q1-112](#)

Wednesday 17 January 2024

Sir Peter Bottomley MP, Petitioner; **Professor Emerita Christine Stevenson**, Witness; **Nickie Aiken**, Witness; **Councillor Louise Hyams**, Witness; **Philip Smith**, Witness; **Dorian Gerhold**, Witness; **Christopher Katkowski KC**, Counsel at Department for Levelling Up, Housing and Communities (DLUHC); **Richard Turney**, Counsel at Department for Levelling Up, Housing and Communities (DLUHC)

[Q1-304](#)

The Rt Hon the Lord Blencathra PC, Petitioner; **Lord Carlile of Berriew CBE KC**, Petitioner; **Richard Turney**, Counsel at Department for Levelling Up, Housing and Communities (DLUHC)

[Q305-410](#)

Tuesday 23 January 2024

Buxton Family and Thomas Fowell Buxton Society, Petitioner; **Brian Doctor KC**, Representative of Buxton Family and Thomas Fowell Buxton Society; **Dr John Fannon**, Witness; **Christopher Katkowski KC**, Counsel at Department for Levelling Up, Housing and Communities (DLUHC); **Richard Turney**, Counsel at Department for Levelling Up, Housing and Communities (DLUHC)

[Q1-328](#)

Wednesday 24 January 2024

London Historic Parks and Garden Trust, Petitioner; **Brian Doctor KC**, Counsel at London Historic Parks and Gardens Trust; **Sally Prothero**, Witness; **Hal Moggridge OBE**, Witness; **David Lambert**, Witness; **Christopher Katkowski KC**, Counsel at Department for Levelling Up, Housing and Communities (DLUHC); **Richard Turney**, Counsel at Department for Levelling Up, Housing and Communities (DLUHC)

[Q1-405](#)

The Baroness Deech DBE KC, Petitioner; **Brian Doctor KC**, Counsel; **Joanna Millan BEM JP**, Witness; **Anita Lasker-Wallfisch**, Witness; **Dr Martin Stern MBE**, Witness; **Sir Richard Evans FRSL FBA**, Witness; **Trudy Gold**, Witness; **Dr Lydia Tischler**, Witness; **Christopher Katkowski KC**, Counsel at Department for Levelling Up, Housing and Communities (DLUHC); **Richard Turney**, Counsel at Department for Levelling Up, Housing and Communities (DLUHC)

[Q406-742](#)

Tuesday 6 February 2024

The Thorney Island Society and Residents of Westminster, Petitioner; **Brian Doctor KC**, Counsel at The Thorney Island Society and Residents of Westminster; **Dr Donald Peck**, Representative at The Thorney Island Society and Residents of Westminster; **Clare Annamalai**, Representative at The Thorney Island Society and Residents of Westminster; **Christopher Katkowski KC**, Counsel at Department for Levelling Up, Housing and Communities (DLUHC); **Richard Turney**, Counsel at Department for Levelling Up, Housing and Communities (DLUHC)

[Q1-173](#)