

The Rt Hon. the Lord Etherton GBE KC
Chair, Select Committee on the Holocaust Memorial
Bill
House of Lords
London
SW1A 0AA

Your Ref
Our Ref: 152024561.1\680053.07010

DDI +442074906420
E robbie.owen@pinsentmasons.com

31 October 2024

Dear Lord Etherton

HOLOCAUST MEMORIAL BILL

We are writing on behalf of the Promoter, further to the Select Committee hearing on 16 October 2024 at which the Promoter's Opening Statement was delivered.

Scope of the Bill and the Committee's considerations

During the Committee's proceedings on 16 October 2024, submissions were made by Counsel for the Promoter, Mr Katkowski KC, on the Promoter's position as to what matters would be within the scope of the Committee's considerations relating to the Bill and in response to questions raised on that issue by the Committee. During those proceedings, the Promoter committed to writing to the Committee to confirm its position, having further reflected on the various points raised by the Committee.

Accordingly, to assist the Committee the Promoter has produced a note setting out its position in light of its consideration of the matters raised at the hearing. This is provided as **Appendix 1** to this letter.

In summary, the Promoter's position remains as that articulated by Counsel for the Promoter on 16 October 2024. The Promoter further wishes to reiterate that, in its view, this does not mean that any matters pertaining to planning (which will be, and indeed already have been, properly and fully considered under the normal planning regime) fall within the scope of the Committee's considerations relating to the Bill.

Draft assurances proffered by the Promoter during the Select Committee proceedings in the House of Commons

At the hearing on 16 October 2024, the Promoter said it would provide the Committee with a copy of the draft assurances proffered by the Promoter during the Select Committee proceedings on the Bill in the House of Commons. These are provided as **Appendix 2** to this letter. It should be noted that these assurances were not formally given to (or accepted by) the House of Commons Select Committee, as they were in the event not requested by the Committee.

Pinsent Masons LLP

30 Crown Place Earl Street London EC2A 4ES

T +44 (0) 20 7418 7000 F +44 (0) 20 7418 7050 DX 157620 Broadgate

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Question from the Committee relating to the on-going process for redetermination of the planning application for a Holocaust Memorial and Learning Centre at Victoria Tower Gardens

On 23 October 2024, we received correspondence from the Clerk of Private and Hybrid Legislation in the House of Lords, which posed a question from the Committee to the Promoter, namely:

“The deadline for responses to the letter of the decision-making Minister, Mr McMahon MP, of 2 October 2024 is 23 October. According to that letter, the Minister will then invite further representations before making a redetermination of the planning application (in accordance with Rule 19 of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000). What information has been communicated to the parties about when the invitation for further representations will be offered, and when a decision under Rule 19 about next steps, that is, whether written representations or a re-opening of the inquiry, will be, or is likely to be, made?”

As a preliminary point, it should be noted that the deadline has since been extended to 6 November 2024, as notified to interested parties by way of an email dated 16 October 2024 from an official in the Planning Casework Unit in the Ministry of Housing, Communities and Local Government (MHCLG).

In answer to the question posed, the Promoter has no further information as to how the process of re-determining the planning application will be run, including timings and whether a new/re-opened public inquiry will be held. As Counsel for the Promoter outlined to the Committee on 16 October, handling arrangements¹ have been put in place in relation to the planning application, such that individuals within MHCLG engaged in that process as the ‘applicant’ (being the officials who are engaged for MHCLG before this Committee in its capacity as the Promoter of the Bill) are functionally separated from those who have responsibility for determining the planning application. Accordingly, MHCLG in its capacity as the Promoter of the Bill has no (and will not have) additional information to that which is in the public domain and which has been communicated to it as the applicant for planning permission and to other interested parties involved in that process. The latest substantive correspondence in this regard (setting aside the administrative email dated 16 October 2024) is the letter referenced above, dated 02 October 2024.

Yours sincerely

**RJV Owen, Partner of Pinsent Masons LLP
Parliamentary Agent for the Secretary of State for Housing, Communities and Local Government**

Appendix 1: Promoter’s note on the scope of the Committee’s considerations relating to the Bill

Appendix 2: Draft assurances proffered to the House of Commons Select Committee

¹ [Holocaust Memorial: handling arrangements for planning casework - GOV.UK](https://www.gov.uk/government/consultations/holocaust-memorial-handling-arrangements-for-planning-casework)

APPENDIX 1

HOLOCAUST MEMORIAL BILL

HOUSE OF LORDS SELECT COMMITTEE

PROMOTER'S NOTE ON THE SCOPE OF THE COMMITTEE'S CONSIDERATION OF THE BILL

1. This note has been prepared on behalf of the Secretary of State for Housing, Communities and Local Government, Promoter of the Holocaust Memorial Bill (**the Bill**). It is provided in response to specific points made by the Select Committee on the Holocaust Memorial Bill (**the Committee**) at its hearing on 16 October 2024 (**the Hearing**) relating to the scope of matters raised by petitioners that the Committee can and should properly consider. This is in full cognisance that it is for the Committee to determine the matters properly for consideration by the Committee.
2. At the Hearing, Counsel for the Promoter submitted that it is the Promoter's position that, in principle, only two matters raised by petitioners can properly be considered by the Committee, in the context of the principle of the Bill that was settled at Second Reading. These two matters are, in short, whether the provisions in Clause 2 of the Bill should be subject to any:
 - 2.1 'territorial' (or spatial) restrictions; or
 - 2.2 'temporal' restrictions,that would limit the effective 'disapplication', provided for by Clause 2, of the statutory obstructions contained in the London County Council (Improvements) Act 1900 (**the 1900 Act**).
3. The Promoter has further considered the various points made by members of the Committee on this issue at the Hearing and has re-examined its position. It is acknowledged by the Promoter, as Counsel for the Promoter articulated during the Hearing, that given the way in which Clause 2 of the Bill is drafted, the matter of 'territorial' restrictions would in practice be determined by any planning permission granted for a Holocaust Memorial and Learning Centre at Victoria Tower Gardens. This is because the terms of that planning permission would set the 'territorial' parameters of the development that can be constructed and, therefore, as a result of the way Clause 2 is drafted, the area over which the statutory obstructions contained in the 1900 Act would be lifted. Necessarily, the Promoter would not be able to construct a Holocaust Memorial and Learning Centre beyond the terms of any planning permission, as this would be unlawful.
4. However, given that planning permission has not yet been granted for a Holocaust Memorial and Learning Centre at Victoria Tower Gardens, and having regard to some of the points raised by petitioners, the Promoter is content to maintain its position that the question of whether the disapplication of the 1900 Act given effect by Clause 2 should be subject to any 'territorial' restrictions is, in principle, an issue for consideration by the Committee.
5. The Promoter therefore remains of the view that the two matters set out in paragraph 2 above are, in principle, matters falling within the scope of the Committee's consideration of the Bill. This is subject to the important qualification that to avoid any conflict with the principle of the Bill, any territorial or temporal restrictions must not "*prevent, restrict or otherwise affect*"¹ activities relating to a Holocaust Memorial and Learning Centre as set in Clauses 1 and 2 of the Bill.
6. But this view does not mean that the Promoter considers the Bill *should* be subject to any such restrictions. Indeed, the Promoter is of the firm view that it should not, as they are unnecessary.
7. For the avoidance of doubt, this view should also not be taken in any way to indicate that the Promoter accepts that planning matters are and should be within the scope of the Committee's consideration of the Bill. The Promoter remains of the firm view that matters that are, in effect, planning matters (e.g. relating to controls on construction, the scale or position of a Holocaust Memorial and Learning Centre and the associated impacts, such as those on visual, amenity and heritage receptors) are not

¹ See Clause 2 of the Bill

and should not be within the scope of the Committee's consideration of the Bill. This is because such matters have a proper forum for interrogation and consideration – namely the normal planning process governed by the Town and Country Planning Act 1990 – and they were considered in detail by a Planning Inspector, further to submissions made and received by various interested parties, as evidenced in the report prepared by that Inspector. It is now for the Minister of State tasked with redetermining the planning application following the quashing of the planning permission granted to consider that report and any further information submitted by interested parties.

8. The Promoter would be happy to make further submissions on these matters to the Committee if it would assist.

31 October 2024

APPENDIX 2

HOLOCAUST MEMORIAL BILL

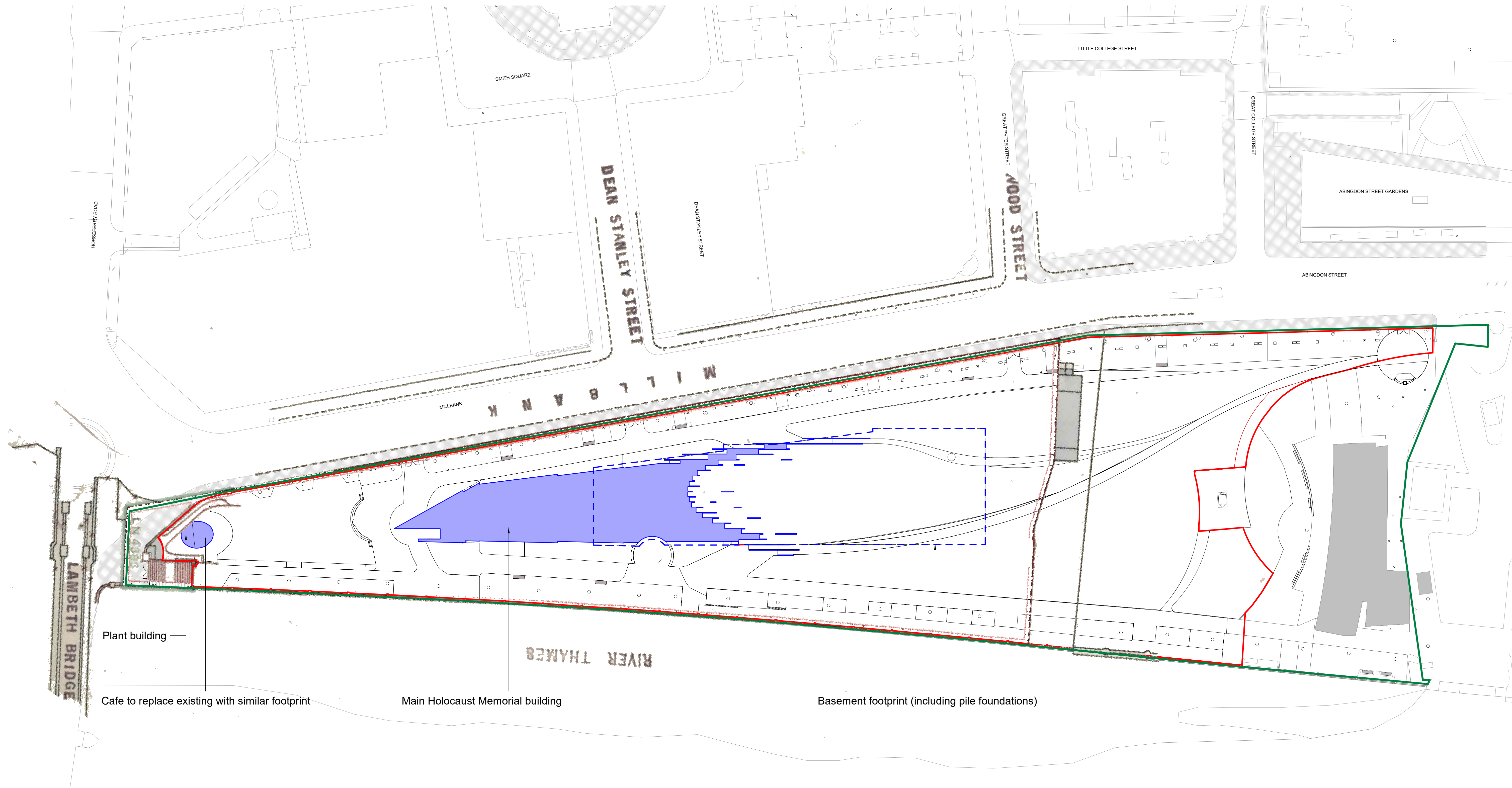
HOUSE OF COMMONS SELECT COMMITTEE

[DRAFT] ASSURANCES BY THE PROMOTER TO THE SELECT COMMITTEE RELATING TO CONSTRUCTION AND THE TERRITORIAL EXTENT OF THE MEMORIAL AND LEARNING CENTRE

The Promoter has noted the concerns raised by various petitioners on the scope of clause 2 of the Bill and the resulting impacts on the public's use of Victoria Tower Gardens during and after construction of a Holocaust Memorial and Learning Centre, should planning permission be granted for it. Having regard to these concerns, the Promoter gives the following assurances to the Select Committee:

1. The Promoter will ensure, as far as reasonably practicable and health and safety considerations allow but excepting factors beyond the Promoter's control (such as adverse weather conditions), that:
 - (a) restrictions on access by the public to Victoria Tower Gardens during the construction of a Holocaust Memorial and Learning Centre will be kept to a minimum and that, in particular, the Promoter will keep a footpath along the river Thames open during the construction period whenever reasonably practicable; and
 - (b) construction will be carried out in a timely and efficient manner and to a target programme of no longer than 3 years and 6 months.
2. The Promoter will require any contractor appointed to construct a Holocaust Memorial and Learning Centre to adhere to the assurances given in paragraph 1.
3. The measures given in paragraph 1 are intended to supplement any actions required to be taken under conditions attached to any planning permission rather than to replace them. Should there be any conflict between these assurances and the requirements of any planning condition, the requirements of the planning condition would take precedence.
4. Although clause 2 of the Bill applies to the whole of Victoria Tower Gardens, the Promoter will only site the permanent buildings and other structures comprising a Holocaust Memorial and Learning Centre and its ancillary facilities ("the permanent elements") in, on, under and over land:
 - (a) coloured blue and/or edged in blue on the attached plan (which is in accordance with the siting of the permanent elements proposed by the current planning application awaiting re-determination); or
 - (b) that is permitted by a planning permission for any other (i.e. modified or replacement) scheme for a Holocaust Memorial and Learning Centre for the siting of the permanent elements.

05 February 2024



1 Location Plan
1:500

- Boundary of Victoria Tower Gardens based on HM Land Registry titles
- Planning application red line
- Basement footprint
- New above ground Holocaust Memorial buildings



DRAFT

4-All works to be done in accordance with technical Building Regulations, and material manufacturer's requirements.

5-Annotations and materials legend see page 00100.

6-Based on the principle-based solutions to the project represented in the architect's drawings, the contractor must draw up technical design shop drawings and / or a work execution project for which the relevant subcontractor undertakes full responsibility for all works to be done on behalf of the contractor. Shop drawings must indicate all constructional information required by the technological, Building Regulations and material manufacturer. These drawings must be accepted by the author of the project, the client's representative and the construction supervisor.

Lead Architect: **Adjaye Associates**

Adjaye Associates
223-231 Old Marylebone Rd.
London NW1 5QT, UK,
Phone: +44 (0)20 7258 6140
email: info@adjaye.com

Memorial Architect: **Ron Arad Architects**

Ron Arad Architects
62 Chalk Farm Road,
London NW1 8AN, UK,
Phone: + 44 (0) 20 7284 4963,
email: info@ronarad.com

Landscape Architect: **Gustafson Porter + Bowman**

Gustafson Porter + Bowman
1 Colham Mews,
London NW1 9SB, UK,
Phone: +44 (0) 20 7284 8950,
email: enquiries@gp-b.com

WSP
WSP House
70 Chancery Lane
London WC2A 1AF, UK,
Phone: +44 (0) 20 7314 5000,
www.wsp.com

Revision	Date	Description	Status	Rev.
			D2 - ISSUED FOR TENDER	

Client:
United Kingdom Holocaust Memorial Foundation

Project:
National Holocaust Memorial

Drawing Title:
Unnamed

Drawing No.:
UKHM-03-504

Scale: As Indicated @ A0
Date: 06.11.20

Drawn By: Author
Checked By: Checker