

HOUSE OF LORDS SELECT COMMITTEE

HOLOCAUST MEMORIAL BILL

SUBMISSIONS OF PETITIONERS

Baroness Ruth Deech and six Holocaust Survivors

Locus Standi: the interest of petitioners

1. The published Guidance of this SC provides that individuals who are directly and specially affected by the Bill have the right to be heard on a petition by the SC.¹ “Directly and specially affected” is a concept that varies depending on the bill in question.
2. “In a broad sense, it is generally understood as meaning a direct and demonstrable impact on property or personal interests, and an adverse effect different to and beyond that experienced by people or bodies generally. Understandings of this concept have developed over the years, and determinations in the cases of individual petitioners will be guided by past precedents, the cases presented by the promoter and petitioner, and the views of the Select Committee.”
3. The Petitioners are: **Anita Lasker-Wallfisch** who survived Auschwitz (because she could play the cello) and Bergen-Belsen (where after six months of practically nothing to eat, she was liberated by the British army).

¹ For convenience, the terms are set out in the PM letter of 2 October 2024.

4. **Dr Martin Stern MBE.** Born in September 1938 in Holland, the son of a Jewish father and non-Jewish mother. After being hidden by a Dutch family, he was eventually discovered, and then sent to Theresienstadt in Czechoslovakia, and liberated from there in 1945 by the Russian army.
5. **Joanna Millan BEM** was born Bela Rosenthal in August 1942 in Berlin. Her father died in Auschwitz and her mother in Theresienstadt. Joanna is one of the few child survivors of Theresienstadt where she was found aged 3, a fact she only found out later in life. She has no memory of this but she describes the process of finding out her origins as a big jigsaw puzzle
6. **Steven Frank BEM** was born in 1935 into a secular Jewish family in Amsterdam, the Netherlands. In 1942 his father was betrayed and arrested in his office in Amsterdam and imprisoned, tortured and sent to Auschwitz-Birkenau where he was gassed in January 1943. Martin was sent to Terezín (Theresienstadt) in Czechoslovakia where he survived and was liberated by the Red Army on 9th May 1945.
7. **Henri Obstfeld** was born in Amsterdam in 1940. In 1942, he was taken by his parents to Arnhem where he was handed over to foster parents who hid him for the rest of the war. In 1944, Henri and his foster parents had to escape to the village of Harskamp. They were liberated by the Allies in April 1945.
8. **Dr Lydia Tischler** was born in 1929 in Czechoslovakia. She was then put into an orphanage but in September 1942 she and her mother and sister were transported to Theresienstadt, and then to Auschwitz in October 1944, where her mother was murdered on arrival. After three days, Lydia and her sister were sent to the Oderan labour camp near Chemnitz. They were liberated at Theresienstadt at the end of the war.
9. **Baroness Ruth Deech.** Her father, Josef Fraenkel, was born in 1903 in Poland, but fled from the Nazis first to Vienna and then Prague. He arrived in Britain on 3 September 1939. Both her grandmothers died in

the camps. Her maternal grandmother had in fact come to England where Ruth's mother was born, but she returned to Poland when the marriage broke up, and died in a camp there.

10. Baroness Deech believes that the Promoter's supporters have gone to great lengths to prevent survivors from knowing exactly what is planned in their names, including banning a talk Baroness Deech was due to give them about it. She is assisting them in their petitions.
11. It was the stated object of the original Holocaust Commission, an intention repeated by the Holocaust Foundation set up to implement the Commission's vision, that the Holocaust Memorial should be built in the lifetime of the remaining survivors. Despite the go-ahead for the project in 2016, the Promoter's planning application only commenced in 2019. He ignored advice from Mr Buxton that the siting of the memorial and learning centre in Victoria Tower Gardens was illegal under the 1900 Act.
12. The Promoter has, despite these delays, continued to proclaim to the planning enquiry, as one of the key factors in justifying the current plans, that the memorial and learning centre must be built in the lifetime of the remaining survivors.
13. A reading of the Inspector's Report shows the success of this argument: significant emphasis was placed on this factor by the Inspector, which he held to weigh very heavily in the balance² against the other harm or damage caused by the building of the memorial to the park itself, local residents, the other memorials, users, trees and so on.

² 15.172 *Whilst the matter of timing alone would not be of determinative weight, any such new scheme and its location must after all achieve HMC expectations and meet development plan and statutory planning requirements. But achieving a memorial within the lifetime of survivors, so seeking to honour the living as well as the dead, has a resounding moral importance that can legitimately, in my view, be considered a material consideration and a public benefit of great importance, meriting considerable weight in the planning balance in this case.*" quoted at [110] of the judgment of Thornton J in *The London Historic Parks v Minister of State for Housing* [2022] EWHC 829 (Admin). See also [141] and [149]

14. Stated briefly, the interest of the holocaust survivors is a right to avoid being blamed for the adverse, in some respects dire, consequences of the current plan of the Promoter to construct a memorial and learning centre according to the Promoter's 2019 plans which were the subject of the recent planning inquiry followed by the Ministerial approval, and which was set aside by the High Court. They fear that when the intended harm to and disruption of Victoria Tower Gardens comes about, they will be blamed and will incur public disapproval and criticism. They also have a right to be consulted and their views taken into account where the Promoter refers to them as a group whose interests he is advancing in his promotion of the Bill.
15. The Promoter's heavy reliance on the contention that these plans, despite all the problems they will cause, must now go ahead so that the memorial and learning centre can be built and completed in the lifetime of the survivors, has been a very significant factor in obtaining the recommendation of the Planning Enquiry, and now one of the prime motivating forces of the Promoter in driving it forward in its current form.
16. The Planning Enquiry report recognised numerous harms and damage. which would be caused by proceeding with the current project. The passage of time has given rise to many more:
 - 16.1 The huge cost of construction, especially of the underground learning centre;
 - 16.2 The enormous sums which will be required to secure it on an ongoing basis;
 - 16.3 The danger that, after the first security lapse, the whole garden will have to be closed off to the public as the only practical means of ensuring security, or at least the most cost-efficient way to secure it;

- 16.4 The damage to the trees and the walkways and the playground and the existing memorials, especially the Buxton memorial to the abolition of the slave trade;
- 16.5 The introduction of mounds and new pathway which will dramatically change the existing use of the garden and the public's enjoyment of it;
- 16.6 The intended disruption of the enjoyment of the garden³
- 16.7 The fact that part of the garden will be used as storage and working areas for the proposed renewal and restoration of the Palace of Westminster, and the likely impact that will have on the duration of the construction of both sets of projects (the memorial and the Palace);
- 16.8 the effect of the sheer numbers of people expected to be attracted (1-2 million per year);
- 16.9 the digging up of the garden to build the underground learning centre
- 17. They will say, in particular, that they have been able to witness the many other Holocaust memorials in the UK in their lifetimes (about 20 such memorials, large and small already exist). It is far more important to them to get the plans for this national memorial right than to impose and implement these plans in a hurry to complete them for what is, in their opinion, an artificial reason. Moreover, a reason which will cause them to be remembered with disapproval and hostility by large sections of the public, when these predictable adverse consequences occur.

³ I'm excited about the site. Britain was the only one of the Allies that felt it didn't need to mark it, so you almost can't find anything about the Holocaust here. And the park's been turned into a sort of memorial garden already - with monuments to the abolition of slavery, not slavery itself, of course, and women's suffrage - so we have the opportunity to activate the entire site and talk directly to parliament, holding it accountable. *Disrupting the pleasure of being in a park is key to the thinking.*" The Times 4 Feb 2019

18. This is an interest which, though unusual, must be recognised in present circumstances. If there were Holocaust survivors who put great store on this memorial being completed in their lifetime, they would equally be entitled to be heard, since there is no-one better placed to advance such viewpoint, if it exists.
19. They also have an interest in the question of how the UK is to record and remember the Holocaust itself, and whether the Promoter's proposals in that regard will achieve those objects. Given the huge amount of public funding that will be made available, they wish to petition Parliament, and in particular this SC, to ensure that the money is wisely spent on a memorial and learning centre which achieves the stated desire of memorialising the Holocaust.
20. Members of the public who are dissatisfied with the memorial and learning centre as eventually built will have to learn to live with it if it turns out to cause the sort of harm and damage envisaged. The survivors, however, will face personal blame and a constant and unending reminder of the lost opportunity to create a Holocaust memorial that does not give rise to the intense hostility which these plans have engendered amongst so many interest groups.
21. Their testimony, if given orally, would be short and to the point. In so far as it is no longer possible, there is video recording of their testimony in the HC SC.
22. Baroness Deech will speak for all of the survivors when it comes to representations. She also has a particular interest in any proposed learning centre, since her life experience is illustrative of the central theme of any learning centre, namely the British response to the Holocaust. Her parents are lived examples of this. Her father arrived, and was interned in Huyton camp as an "enemy alien". He was ordered to be deported (on a ship that was in fact torpedoed by the Germans) but luckily he dodged boarding. Her mother and father strove to have her

grandmother admitted here from Poland, but were refused permission, which decision led to her death in a camp. Other relatives and friends were admitted as refugees only on condition that they did domestic work. Her father was rendered stateless and her mother was made stateless, deprived of her British nationality, because she married him. Her mother's citizenship was not restored until 1947.

23. Of course there are no direct precedents, but the examples that have arisen in the past show that a SC can accommodate unusual and somewhat incorporeal interests. Thus (references are to pages of the Promoter's Bundle of authorities):
 - 23.1 Page 12: para 9-14, 20: nuisance can include "productive of sensible personal discomfort to a landowner", and thus noise came to be considered as amounting to real interference with the use of land.
 - 23.2 page 17, para 27: the great store set by an elderly petitioner who has suffered grievous misfortune, in being able to bicycle along a lane to get from her house to the stables where her ponies were kept.
 - 23.3 Page 22, para 8: traffic flows and the prospect of increased noise and pollution.
24. The guidance recognises that the SC is ultimately the master of its own procedure and the scope of its consideration. It is a bitter irony that the Promoter has seen fit to object to the petition of the very people he uses to justify the urgency of the scheme he is promoting. The SC should allow them to speak for themselves in order to persuade the House of Lords to modify the Bill so as to avoid the risks and adverse consequences they fear.

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