

PROPOSED HOLOCAUST MEMORIAL AND LEARNING CENTRE,
VICTORIA TOWER GARDENS, LONDON SW1

PLANNING INSPECTORATE REFERENCE: V/19/3240661

INQUIRY PURSUANT TO SECTION 77 OF THE TOWN AND COUNTRY PLANNING ACT 1990

OPENING SUBMISSIONS
ON BEHALF OF WESTMINSTER CITY COUNCIL

Introduction

1. No right-thinking individual could question the desirability of appropriately memorialising the atrocities of the Holocaust and those who suffered as a result of it. But that is not the issue before this Inquiry. What this inquiry is about is whether *this* memorial in *this* location is appropriate.
2. The position of Westminster City Council (“the **Council**”) is that it is not. That is because this proposal: (1) will harm the significance of designated heritage assets of the highest significance;¹ (2) will pose a clear risk of the loss of, or harm to, well-established trees which line the boundaries of Victoria Tower Gardens (“**VTG**”)² and which all parties accept are significant in heritage, townscape and visual terms; and (3) will harm physically, functionally, and perceptually an important area of open space.³
3. As such, this development accords neither with the development plan, read as a whole, nor with the Applicant’s own policies set out in his NPPF.⁴ These significant adverse impacts are neither necessary nor justified; the objectives of the

¹ PoE Ayton para. 201

² PoE Mackworth-Praed para. 4.1.5

³ PoE Dorward paras. 3.1- 3.63

⁴ PoE Dorward para. 9.12

development, and its benefits, can be achieved without causing the harm which results from this proposal.⁵

The Proposal

4. The proposal is to locate a Holocaust Memorial and Learning Centre in VTG, which is an area of well appointed publicly accessible green space in the very heart of Westminster, directly adjacent to the Houses of Parliament and the UNESCO designated World Heritage Site (“**WHS**”).
5. The Gardens themselves are Grade II listed on the Register of Historic Parks and Gardens. They contain a number of important heritage assets which have been designated in their own right, including the Buxton Memorial (listed Grade II*), the Pankhurst Memorial (listed Grade II*) and the statute of the Burghers of Calais (listed Grade I).
6. VTG is well used and, as such, contributes to the health and wellbeing of local residents, workers, and tourists, who visit the gardens to relax, to socialise, and for recreation.⁶
7. As is well rehearsed in the evidence, the development will involve excavating a considerable proportion of VTG. An entrance pavilion, memorial courtyard and memorial fens (together amounting to an area of 1,429sqm) will be constructed and enclosed within a secure perimeter, with a further area of the Park’s central core, comprising a footprint of approximately 2,000sqm, to be transformed into a grassed mound that slopes down to the north from the location where the fens project, beneath which will be the learning centre, laid out over two levels.⁷

⁵ PoE Dorward paras. 8.1-8.11

⁶ PoE Dorward paras. 2.2-2.3

⁷ PoE Dorward paras. 3.6-3.10

8. Whilst the grassed mound will be publicly accessible, the effect of the proposed development will be fundamentally to alter the character of VTG, as Historic England has observed. Views within, as well as into and out of, the VTG will be curtailed. The remaining areas of open space will, in effect, become the setting of the Memorial and Learning Centre.

Historic Environment

9. All parties seem now to agree that the proposal will cause some degree of harm to designated heritage assets.⁸ As Mr Ayton's evidence makes clear, even assuming no trees are lost (which as explained below is not a sound assumption), the development would cause:
 - a. Significant, but less than substantial, harm to the OUV of the Palace of Westminster and Westminster Abbey WHS, and to the significance of the Grade I listed Palace of Westminster.⁹
 - b. Harm at the upper end of 'less than substantial' to the significance of VTG itself¹⁰ and the Grade II* listed Buxton Memorial.¹¹
 - c. Less than substantial harm to the significance of Pankhurst Memorial (Grade II*) and of Rodin's Burghers of Calais (Grade I) as a result of impact on their setting.¹²
 - d. Less than substantial harm to the character and appearance, and significance, of the Westminster Abbey and Parliament Square Conservation Area.¹³

⁸ For the Applicant's acceptance see PoE Miele para. 1.11

⁹ PoE Ayton para. 109 and 113

¹⁰ PoE Ayton para. 86

¹¹ PoE Ayton para. 94

¹² PoE Ayton para. 95

¹³ PoE Ayton para. 99

10. On any view, and as a matter of law, this harm must carry considerable importance and weight. It is in itself a substantial objection to the proposed development. The development does not accord with policies S25 and S26 of Westminster’s City Plan (November 2016) (“the **City Plan**”), saved policies DES1, DES9, DES10, DES12, and DES16 of the Unitary Development Plan (“**UDP**”) adopted in January 2007, policies 7.8 and 7.10 of the London Plan (2016) and policies HC1 and HC2 of the Intend to Publish London Plan 2019. Applying the test in NPPF para. 196, the City Council considers that this harm is not outweighed by the benefits of this development in the form and on the scale proposed here and we return to the required planning balance shortly.
11. Moreover, the mature London Plane trees which enclose VTG on its east and west sides make an important contribution to its character and appearance, and to its significance.¹⁴ That this is the case, seems to be common ground. If those trees were to be harmed significantly or lost, the overall heritage impact on the significance of VTG, the Westminster Abbey and Parliament Square Conservation Areas, the memorials, especially the Buxton Memorial, the Palace of Westminster and the WHS would be tipped into the level of substantial harm. Substantial harm, in the context of up to date planning policy and guidance, means an adverse impact which seriously affects a key element of a building’s special architectural or historic interest; it does not require total or practical loss of significance¹⁵. There will also be additional (but less than substantial) harm to the significance of the Smith Square Conservation Area and the adjacent listed buildings (Norwest House and Nos 1 and 2 Millbank).¹⁶
12. In such circumstances, in addition to the conflicts with development plan policy identified above, NPPF paras. 194 and 195 will be engaged. As those paragraphs make clear, such harm even to Grade II listed assets should be exceptional. Where (as in this case) assets are of the highest significance (Grade II* or above) that bar is raised to

¹⁴ PoE Ayton para. 170

¹⁵ See PPG Ref ID 18a-018-20190723 in light of which the decision in *Bedford v Secretary of State for Communities and Local Government* [2013] EWHC 2847, which preceded the publication of the PPG, must now be understood.

¹⁶ PoE Ayton paras. 173 - 183

“wholly exceptional”. Given the potential for alternatives, that test is not met. Nor is the test under NPPF 195.¹⁷

Trees

13. VTG is enclosed to the east and west by rows of mature London Plane trees that, as we have said, all parties agree contribute substantially to its character and appearance and to that of the wider area. A number of other trees are also located within the gardens themselves. The Council has appointed an independent arboricultural expert, Mr Mackworth-Praed, to conduct a systematic assessment of the impact of the proposed Holocaust Memorial and Learning Centre in accordance with BS 5837. The outcome of that assessment is that the Applicant has significantly underestimated the risk posed by the proposed development upon VTG’s trees.¹⁸ In addition to the entire omission of certain trees from key relevant plans (trees 70000, 70002 and 71006 – 71008) and even the total overlooking of the existence of certain trees (71027 and 71028), the Applicant has failed to appreciate the impact of the existing carriageway at Millbank on the extent of the appropriate RPAs for the trees on the west side of VTG.¹⁹ When the approach set out in BS 5837 is correctly applied, the levels of assessed impact are considerably greater than those presented by the Applicant.²⁰

14. The Applicant, we submit, has failed to demonstrate that the development can be delivered as proposed within VTG without generating a clear risk that the trees lining its boundaries will suffer significant harm of an extent capable of causing their loss, or else material decline and dieback.²¹

15. This impact means that the development would not accord with policies S25 and S38 of the City Plan, saved policies ENV16 and DES 9 of the UDP, London Plan Policy 7.21 and Policy G7 of the Intend to Publish London Plan.

¹⁷ PoE Dorward para. 5.15

¹⁸ PoE Mackworth-Praed para. 4.1.1

¹⁹ PoE Mackworth-Praed para. 4.1.2

²⁰ PoE Mackworth-Praed para. 4.1.3

²¹ PoE Mackworth-Praed para. 4.1.5

Open Space

16. As we have already submitted, to develop the Holocaust Memorial and Learning Centre as proposed would transform the Gardens physically, functionally, and perceptually.
17. Physically, in addition to the introduction of a large grassed mound with projecting fins, the fencing off of an area of VTG would result in the loss of public open space. That this will arise is a matter of indisputable fact. As a result, there would be a material reduction in the amount of open space available for use by members of the public, which is itself a significant adverse impact.²² Areas of hard standing will dramatically increase at the expense of existing green space, with the total amount of recreation green space/ grass reduced by 26%/ 27%.²³
18. Functionally, the siting of the proposed development within the central lawn area will segregate the Horseferry playground from the remaining flat lawn areas, making it difficult for users easily to interact between those remaining areas of the Gardens, thereby reducing the integrated and inclusive sense of community that users of the Gardens currently enjoy²⁴. Access to, and movement within, the Gardens will be obstructed by the security arrangements that the development requires. The introduction of the mound will reduce the area of flat grass available for recreation, and will be of a lesser quality for this purpose.²⁵ Indeed, the juxtaposition between the contemplative nature of the monument and the noise and activity arising naturally as a result of informal play and ordinary recreation will mean that some users may feel, reasonably and understandably, that it is not appropriate to continue to use the Gardens in this way.²⁶ Overall, the usability of VTG as a park for social and recreational purposes will be reduced.

²² PoE Dorward para. 3.22

²³ PoE Dorward para. 3.23

²⁴ PoE Dorward para. 3.24-3.25

²⁵ PoE Dorward para. 3.28

²⁶ PoE Dorward para. 3.26

19. Perceptually, as a result of the scale of the proposed development, VTG will come to be seen by many as the setting of the Holocaust Memorial and Learning Centre, rather than as an area of public open space for recreation and relaxation.²⁷ It will be transformed from being a park in its own right, to an area associated with the Monument and Learning Centre which will come to define it.
20. This clear adverse impact on an important open space means that the development does not accord with policy S35 of the City Plan, policy ENV15 of the UDP, London Plan Policy 7.18, Emerging City Plan policy 35C, Intend to Publish London Plan Policy G4, and NPPF para. 97.²⁸

Planning Balance and Conclusions

21. In light of the above, the proposed development does not accord with the development plan, read as a whole, or the NPPF. Planning permission must be refused unless material considerations outweigh these conflicts.
22. In short, the City Council is not satisfied that the benefits relied upon by the Applicant outweigh the harm to the historic environment that will be caused by a development of the form and scale proposed in this location, nor do those benefits outweigh the conflict with the development plan. The City Council supports fully the delivery of a fitting memorial in London to the victims of the Holocaust. It also supports a learning centre, which would contribute to ensuring that the horrors of that dark chapter of European history are not forgotten. However, these objectives, important as they are, do not have to be met through a development in this location of the form and scale proposed. These objectives are capable of being appropriately and successfully achieved by a more modestly designed but fitting memorial in VTG with a learning centre provided elsewhere, or, if co-location is considered to be critical, by a memorial and learning centre being delivered in another appropriate location, such as at the

²⁷ PoE Dorward para. 3.28

²⁸ PoE Dorward paras. 3.31-3.63

Imperial War Museum, London, which was considered suitable by the Prime Minister's holocaust Commission.²⁹

23. It should be clear to all that the City Council has not taken the decision to oppose this development lightly or without very considerable thought and care. The objective behind the development – the memorialisation of terrible events - is plainly of national, indeed international, importance. The City Council recognises that there are strong views, genuinely held, on both sides of the argument. However, given the utmost sensitivity of VTG and its surroundings, any memorial, particularly in terms of its form and scale, must be the right one. Notwithstanding the prestige of the Applicant's design team, what is proposed here, we say, is not the correct response to this important location. For the reasons we have given, therefore, the City Council's case is that planning permission for the development proposed should be refused.

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6 October 2020

²⁹ PoE Dorward paras. 8.1-8.11