UNITED KINGDOM HOLOCAUST MEMORIAL AND LEARNING CENTRE

APPLICATION BY THE SECRETARY OF STATE FOR HOUSING, COMMUNITIES AND LOCAL GOVERNMENT

PINS REF. APP/X5990/V/19/3240661

OPENING SUBMISSIONS ON BEHALF OF THE THORNEY ISLAND SOCIETY/SAVE VICTORIA TOWER GARDENS & THE LONDON GARDENS TRUST

Introduction

1. I will begin with some relevant factual background detail which highlights the premature and presumptuous assurance on the part of the Secretary of State, the Prime Minister and the Government that the proposals before this inquiry should or “will” be built in Victoria Tower Gardens.
2. While this involves mention of the High Court judicial review, the Inspector can be reassured that this does not bear on his task in hearing this inquiry which is and remains to make a recommendation to the decision maker (whether the Secretary of State or someone else) in the light of all the evidence given and submissions made by or on behalf of all those participating in this inquiry.
3. For the avoidance of any doubt, however, everyone should be aware that the parties whom I represent are not opposed to the principle of an appropriate memorial to the horrors of the Holocaust. Indeed, many of their supporters are Jewish people whose families were either forced to flee the Holocaust or perished in it. But they nevertheless oppose the proposals before this inquiry which are fundamentally objectionable for the numerous reasons set out below.

Background

1. The proposal for a UK Holocaust Memorial was first announced in January 2015 in the then Prime Minister, David Cameron’s, Holocaust Commission Report “Britain’s Promise to Remember”. The report stated that “there should be a striking new memorial to serve as the focal point for national commemoration of the Holocaust. It should be prominently located in Central London to attract the largest possible number of visitors and to make a bold statement about the importance Britain places on preserving the memory of the Holocaust.”
2. In January 2016, the then Prime Minister (David Cameron) announced that “this memorial will be built in Victoria Tower Gardens”.
3. A design competition was launched in September 2016 and in October 2017 it was announced that Adjaye Associates, Ron Arad Architects and the landscape architects Gustafson Porter + Bowman had been selected to design the new Holocaust Memorial and (by now) Learning Centre to be located in Victoria Tower Gardens.
4. In January 2019, the Secretary of State for Housing, Communities and Local Government, Robert Jenrick MP, made the application to Westminster City Council for planning permission for the “installation of the United Kingdom Holocaust Memorial and Learning Centre…” to be located in Victoria Tower Gardens.
5. Victoria Tower Gardens lie on the banks of the Thames to the south of and immediately adjacent to the Palace of Westminster and Westminster Abbey UNESCO World Heritage Site and to the Palace of Westminster itself, a Grade I listed building. The Gardens themselves are a Grade II Registered Park and Garden and form part of the Westminster Abbey and Parliament Square Conservation Area. They contain a number of statutorily listed buildings: Rodin’s Burghers of Calais (Grade I), the Buxton Memorial Fountain (Grade II\*) and the Emmeline and Christabel Pankhurst Memorial (Grade II\*).
6. Other designated heritage assets in the vicinity include: Lambeth Bridge (Grade II listed), Victoria Tower Lodge and Gates to Black Rod Garden (Grade I listed), Northwest House, Millbank (Grade II listed), The Church Commissioners (Grade II\* listed) and Lambeth Palace (Grade I listed). Smith Square Conservation Area lies immediately to the west of the Gardens and includes St John's Smith Square church (Grade I listed), visible from Victoria Tower Gardens.
7. The surrounding area has an extremely large and diverse range of buildings dating from the twelfth century to modern times. The majority of the buildings within the Conservation Area are listed; however, buildings of all eras and styles contribute to its character.
8. It is hard to think of a more sensitive area in terms of its cultural, historical and heritage significance.
9. On 5 November 2019, the Secretary of State called in the application for his own determination, rather than leaving it to be determined by the City Council.
10. The Rule 6 parties who oppose the development and many others raised concerns about the lawfulness of the decision making procedure involving the applicant for the planning permission being the decision maker on his own application and therefore “a judge in his own cause”.
11. These concerns were expressed against the background of many statements about the Government’s, the Prime Minister’s and the Secretary of State’s commitment to the development proposed in Victoria Tower Gardens being carried out.
12. On 8 August 2019, the Secretary of State stated that “The National Holocaust Memorial and Education Centre has the complete and unshakeable support of the Prime Minister and I. It is a project of exceptional national significance.”
13. The Government’s election manifesto published on 24 November 2019 contains a commitment to “support the construction of the planned UK Holocaust Memorial”.
14. The Prime Minister has stated his personal commitment to its construction, saying in his speech at the Holocaust Memorial Day service on 27 January 2020 that “I will make sure we build the National Holocaust Memorial and Education Centre”.
15. In February 2020, when it appeared that Westminster City Council might oppose the proposed development, the Secretary of State said that

“the naysayers on that project will not succeed. We will build that memorial — let me promise you that.”

1. On 11 February 2020, immediately before Westminster City Council considered his application, the Secretary of State stated that

“the Government remains implacably committed to the construction of the Holocaust Memorial and Education Centre at the heart of our democracy, beside our national Parliament ... No one, whether in national or local government should shirk their duty to deliver on the promise of this memorial, and the Government certainly will not”.

1. Despite the uncompromising terms of this injunction by the Secretary of State, who – never forgetting – was also the applicant for planning permission which was being considered by the City Council, their Planning (Major Applications) Sub-Committee resolved unanimously that they would have refused the application if it had not been called in by the Secretary of State.
2. This unanimous resolution was made having full and proper regard to the planning merits and, although the committee supported the principle of the proposal, they accepted the recommendation of their professional officers and concluded that the development was objectionable because of its size, design, location and associated activity, as well as for reasons of harm to heritage assets, impact on the many mature trees on the application site and as a result of loss of recreational open space.

The Thorney Island Society/Save Victoria Tower Gardens and the London Gardens Trust

1. The stance of the Rule 6 parties whom I represent complements the position of the City Council (although Thorney Island Society/Save Victoria Tower Gardens raises two additional issues, namely, highways impact and flood risk – see further below). They have various but overlapping objections to the proposals before this inquiry.
2. The Thorney Island Society is the local amenity society for the area of south-east Westminster, which includes Victoria Tower Gardens. Their remit is to protect the amenities that people living and working in the area value. As a local amenity society they were officially consulted by the City Council on the application.
3. The Save Victoria Tower Gardens Campaign was founded in the autumn of 2016 - to coincide with the launch of the design competition for the Holocaust Memorial proposed for Victoria Tower Gardens by David Cameron. The Campaign is supported by a very large number of individuals and organisations objecting to the project. Their supporters originate not only from SW1, but from all over London, the UK and even abroad.
4. The London Gardens Trust (as now renamed) is a charity with the principal object of preserving and enhancing the quality and integrity of London’s green open spaces. The Trust was never consulted before the launch of the public consultation with assumed the location of the proposals in Victoria Tower Gardens. This is surprising given its affiliation to the Gardens Trust, a statutory consultee in the planning process.
5. The Trust takes its work and responsibilities very seriously and has invested considerable effort to produce a carefully considered Heritage and Significance Statement for Victoria Tower Gardens (CD 8.46). The Trust has been actively involved in the planning process as an objector to the proposals and, because of its particular concern about the impact of the proposals on Victoria Tower Gardens a Grade II Registered Park and Garden, has also secured Rule 6 status in this inquiry.
6. As the Inspector will be aware, the Trust were also the Claimants in the judicial review (which was decided on 2 October) of the Secretary of State’s decision making arrangements proposed for the determination of the application before the inquiry.
7. As noted before, and for the avoidance of doubt, that claim was directed only at the Secretary of State and did not in any way concern or reflect on the Inspector’s role in this inquiry. On the contrary, one of the outcomes sought in the judicial review was for matters to be arranged so that the Inspector appointed to hold this inquiry should determine the application himself, as so frequently occurs in transferred jurisdiction cases.
8. Moreover, the Trust (and the other Rule 6 parties whom I represent) wholeheartedly endorse the statement by the Court in para. 14 of the judgment that “the Planning Inspectorate is held in the highest regard for its independence, expertise and professionalism”.
9. In the event, the judicial review has not resulted in a change of decision maker but that does not bear on the Inspector’s responsibilities in hearing this inquiry which the Rule 6 parties whom I represent have no doubt will be conducted scrupulously and fairly like any other planning appeal or called in application.
10. Further to which, and finally, despite those parties requesting the Inspector to revert to “live” inquiry mode at the CMC instead of these virtual proceedings which we are now embarking on, they respect and embrace the Inspector’s decision to proceed as best we may in these unprecedented circumstances and are resolved to working willingly and constructively in assisting the Inspector in the discharge of his duties.

The Inspector’s issues for consideration

1. What follows is a brief overview of the position of the parties whom I represent to set the scene for the presentation of their case in this inquiry. The submissions are organised in accordance with the list of issues identified by the Inspector.
2. Effect of the proposals on the significance of the Grade II Registered Park and Garden
3. By way of preliminary comment it is to be observed that of course the heritage designations within and surrounding the application site intersect and overlap and many of the impacts on any one of them will also be suffered by others.
4. But it is appropriate to start with the impact of the proposed development on Victoria Tower Gardens as a Grade II Registered Park and Garden in its own right, the causing of substantial harm to which should be “exceptional” within the terms of para. 194(a) of the NPPF.
5. Furthermore, as an area of existing open space as referred to in para. 97 of the NPPF, the presumption is that it should not be built on unless specific criteria are satisfied, none of which apply here.
6. As the Inspector will have seen, Victoria Tower Gardens is an oasis of calm in the heart of the capital, framed as it by a large number of very fine substantial mature trees – which are integral to its special character – and benefitting from a most pleasing uncluttered openness of aspect. As described eloquently in Mr Moggridge’s evidence, it functions as a green lung in an area which already suffers from poor provision of recreational space.
7. As noted in Ms Prothero’s evidence, and this is plainly visible on the ground, “The visual character of the park is dependent on the quality and nature of views”, CD 8.46 page 88.
8. As noted by Ms Prothero, the Applicant’s assessment of the special qualities of the Gardens, and therefore its estimation of the extent of harm to it, is inadequate in that it does not analyse the heritage asset in terms of its “values”, despite the clear guidance to that effect in English Heritage/Historic England’s Conservation Principles, Policies and Guidance.
9. Their analysis includes no consideration of wider or simultaneous views or the potential for enjoyment of more than one heritage asset within the wide, open landscape of the gardens. Similarly, they include no proper analysis of the impact of additional hardstanding, soil mounding, and the imposing Hostile Vehicle Mitigation barriers and other fencing and ancillary structures on the character and amenity of the Gardens.
10. Again as set out in Ms Prothero’s evidence, the proposals would involve the loss of more than a quarter of existing open recreational park space, cramping the remainder of what remains and reducing in size and cutting off the children’s playground from the public realm. (It is noted that the applicant disputes the extent of loss in their rebuttal evidence but does not actually volunteer an alternative figure for the full extent of loss – although Mr Goddard apparently maintains the 7.58% figure which Ms Prothero disputes).
11. Another completely unknown quantity on the current state of the applicant’s evidence is the likely extent of tree loss as a result of invasive excavations to accommodate the development.
12. But whatever the precise figure may be, the applicant’s proposals will involve the loss of a large proportion of these most valuable and valued gardens and, as set out also in the evidence of Mr Moggridge and Ms Annamalai, will result in a substantial loss of the functional area of the park and result in its being swamped and overwhelmed by a huge increase in visitor numbers – unrelated to the primary function of the Gardens as a public park.
13. Similarly, as set out in the evidence of Mr Moore, the application proposals with their associated grass mounding would completely change the existing intimate and tranquil atmosphere of the Gardens resulting in the loss of its special qualities.
14. As Ms Prothero’s evidence concludes, if allowed, the application proposals will irreversibly change and substantially harm the character of the consciously designed Grade II registered park. They would turn a calm green garden space into a cluttered, visually and physically congested and urbanised “landscape” to the substantial detriment of its special amenity and character.
15. Ms Prothero’s evidence is also forcefully complemented and corroborated by Mr Lowndes’ evidence as to the substantial harm which he accords to this most important heritage asset, the significance of which he assesses, in common with Ms Prothero, as very high, particularly in the light of the other very high value heritage assets located within it and surrounding it.
16. Whether proposals would preserve c and a of Westminster Abbey/Parliament Square CA
17. Westminster Abbey and Parliament Square Conservation Area is one of the most if not the most significant and valuable conservations area in the country – assessed by Mr Lowndes as being of very high significance. It follows as above that the application proposals would not “preserve” but would in fact substantially harm the character and appearance of the conservation area of which the Gardens form an integral part.
18. Whether the proposals would preserve setting of Grade II\* Buxton Memorial and others
19. Likewise the setting of the Grade II\* Buxton Memorial would be substantially harmed if the application proposals were permitted to be constructed immediately alongside it, also assessed by Mr Lowndes as being of very high significance. As evocatively described by Mr Moggridge, the Buxton Memorial would be “engulfed” by the proposals, to the substantial detriment of its setting and significance. This is starkly illustrated by the image from the DAS reproduced on page 8 of Mr Moore’s evidence. Mr Moggridge’s evidence is of a piece in this respect with Ms Prothero’s, Mr Moore’s and Mr Lowndes’.
20. Whether the proposals would preserve the setting of the Grade I Palace of Westminster
21. Again, the proposals would substantially harm the setting and therefore significance of the Grade I listed Palace of Westminster. As Mr Moore says, this substantial harm arises as a result of placing this “flawed and over large” Memorial within its setting. Its impact in views of the Palace would be marked and damaging.
22. As Mr Lowndes concludes, the proposals would profoundly change the relationship between the Gardens and the Palace of Westminster so that the Palace, a heritage asset of the very highest significance, would no longer be seen “clearly and dramatically from the gardens” as it now is and that many views of it would be blocked, obscured or filtered by a built form quite alien to the character of the area. Again, it is hard to imagine a heritage asset of higher significance than the Palace of Westminster in the whole of the UK.
23. The effect of the proposals on the OUV of the World Heritage Site and its setting
24. This topic is covered comprehensively and authoritatively in the evidence of Susan Denyer, the Secretary General of ICOMOS UK. ICOMOS UK is the UK National Committee of ICOMOS (International Council on Monuments and Sites). ICOMOS develop best practice in the conservation and management of cultural sites, and are specialist advisers to the UNESCO World Heritage Committee on cultural World Heritage sites. Active in over 130 countries, it is one of the most highly regarded conservation organisations in the world.
25. So Ms Denyer is exceptionally well-placed to express the conclusion that the proposal would have a highly significant negative impact on the Outstanding Universal Value of the World Heritage Site amounting to “substantial harm” within the terms of the NPPF.
26. As she says in her evidence, development of the Holocaust Memorial and Learning Centre within Victoria Tower Gardens will very much reduce and restrict space from which Victoria Tower can be contemplated and understood so that detailed and medium distance views of Victoria Tower will be highly compromised.
27. She points out that the Palace of Westminster was designed to be dominant in the landscape through its form, size and siting and the Victoria Tower was designed to be the tallest and most visible part of it.
28. As she says, the setting of the Palace should allow an understanding of it as an entity, of its functions and of the dignity and symbolism with which it is endowed. If the Palace is compromised by structures around it that significantly impair its ability to rise above its surroundings as intended, then part of its symbolism will be lost.
29. As she concludes, the Memorial would compete with the Palace in terms of symbolism as well as visibility so that the symbolism of the Palace, and particularly the Victoria Tower, would be highly compromised. It will interfere with and demean the setting of the Palace as “vivid symbol of one of the oldest parliamentary institutions in the world”; will restrict views of the Victoria Tower intended to be a dominant element of its design, and weaken overall appreciation of the form and siting of the Palace.
30. These conclusions of Ms Denyer’s accord with Mr Lowndes’ assessment set out above.
31. Whether proposals would preserve the character and appearance of the Smith Square CA
32. Where the character and appearance of the Smith Square conservation area is concerned, again, the proposals would not preserve its character and appearance. The main issues here are the views from St John’s Smith Square and along Dean Stanley Street.
33. As Mr Lowndes concludes the proposals would not preserve the character or appearance of the Smith Square Conservation Area (a conservation area of high significance) and would cause less than substantial harm to it – but would cause substantial harm to the setting of St. John's, a Grade I listed building of very high significance.
34. Whether the proposals would preserve the settings of adjacent listed buildings
35. As set out in Mr Lowndes’ evidence, the proposed development would not preserve and would cause less than substantial harm to the settings of the adjacent listed buildings, namely, Norwest House, Nos 1 & 2 Millbank, the river embankment wall, Lambeth Bridge and its obelisks. He assesses these buildings as being of high significance.
36. Whether the proposals would result in the loss of or harm to trees of amenity value
37. This will be a substantial issue before the inquiry. Despite the number of reports produced by the applicant purporting to address this issue, the position remains that Mr Barrell, in common with Mr Mackworth-Praed and the officers of Westminster City Council, do not regard the submitted arboricultural documentation as sufficient in its level of detail to demonstrate that the potential impacts on the plane trees would not be likely to result in harm to them, potentially leading to their loss.
38. Therefore, and similarly, it is not agreed that these matters can be satisfactorily addressed or assured by means of an arboricultural method statement to be submitted pursuant to a condition or conditions to which any grant of planning permission might be subject – which is what the applicant proposes.
39. Whether the proposals/increased visitor activity would result in loss of public open space and the functionality and character of Victoria Tower Gardens for recreational purposes
40. This matter is addressed above and generally in the evidence of Ms Annamalai. Messrs Moggridge and Lowdes also make specific comments on the loss of open space in the context of para. 97 of the NPPF.
41. The effect of the proposals on the security of the area
42. The adverse effects of having yellow vested security staff patrolling the Memorial and its surroundings are referred to in the evidence of Ms Annamalai. But the specific question as to the effect of the proposals on the security of the area is addressed in the written submission on security issues put in by the Thorney Island Society/Save Victoria Tower Gardens (CD 5.35).
43. Additional objections – highways impact and flood risk
44. In addition to the above, the Thorney Island Society/Save Victoria Tower Gardens also raise the two issues which are to be considered in due course in the round table sessions. These relate to highways impact and flood risk and are maintained despite the lack of objection from the City Council or the Environment Agency. As Mr Peck’s evidence concludes, the impact of the proposals on the highways network including the footways is severe (and he does contend that they form part of the highways network) and that there would be unacceptable impacts on highways safety because of the risks to cyclists. Mr Coombs concludes that the risk of a breach flooding event has not be adequately addressed or provided for.
45. Other material considerations, including any public benefits the proposals might bring
46. The applicant refers to a number of public benefits as outweighing the harm caused by the proposals. The applicant’s case is (now – contrast para. 6.9 of their statement of case which refers to “harm… if any”) that “less than substantial harm” will be caused to the significance of designated heritage assets by the application proposals.
47. This is of course disputed by the Rule 6 parties whom I represent who contend that “substantial harm” would be caused to all of the heritage assets most nearly affected.
48. The perceived benefits referred to by the applicant include the delivery of the Holocaust Memorial and Learning Centre; “social benefits, by helping to fight racism and discrimination in all its guises…”; claimed environmental benefits in the form of the “highest architectural and design quality” and a contribution to the “economic importance of Westminster’s cultural and tourist attractions”, see section 10 of Mr Goddard’s proof of evidence.
49. As Mr Lowndes says in his evidence, the delivery of the Memorial and Learning Centre is an important public benefit – but that that benefit is generic in the sense that it would equally arise in any number of less sensitive locations.
50. Therefore such a “public benefit” cannot be so substantial as to outweigh the substantial harm to heritage significance arising in and to Victoria Tower Gardens and the surrounding exceptionally high value heritage assets. Mr Lowndes, in common my many other participants in this inquiry, also questions the need for co-locating the Memorial and Learning Centre with Parliament.
51. The claimed architectural quality of the proposals is disputed for the reasons set out in Mr Moore’s evidence. So the proposals do not represent any positive addition to the Gardens having regard to the substantial harm which would be caused to the settings of to the surrounding heritage assets of the very highest significance. Accordingly, and as Mr Lowndes says, this factor amounts to “no public benefit”.
52. The contribution to the local economy would apply equally to a Memorial and Learning Centre located elsewhere in central London (such as at the Imperial War Museum).

Conclusion

1. The proposals before the inquiry are unacceptable on grounds of conflict with policies for the protection of the historic environment, the protection of open space and protection of the natural environment. They cannot on any view lay claim to the description of “sustainable development”.
2. They would cause substantial harm to the settings of numerous designated heritage assets of the very highest value and significance. They would result in both the loss and transformation of substantial areas of valuable and valued open space in an area of already low provision. They would be likely to result in the loss of fine mature trees which contribute so substantially to the quality and value of Victoria Tower Gardens and the setting of the Palace of Westminster and the World Heritage Site.
3. In the light of all the foregoing, the Inspector will in due course be respectfully requested to recommend dismissal of the Secretary of State’s application.

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6 October 2020