

PUBLIC INQUIRY: HOLOCAUST MEMORIAL AND LEARNING CENTRE

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1. Topic 1: Obligations of the WH Convention

In my Proof of Evidence I set out why I consider that the proposals for the Holocaust Memorial and Learning Centre would have a highly adverse impact on the Outstanding Universal Value (OUV) of the Westminster World Heritage site (WHS).

Central to my analysis is a full understanding of what the World Heritage (WH) Convention is and the obligations that come with it.

I would like to start by exploring these two points.

The World Heritage Convention for the protection of World's Cultural & Natural Heritage, to give it its full title, came into force in 1972. It has an extraordinarily simple mandate - to identify, protect, conserve and transmit to future generations cultural and natural heritage of 'Outstanding Universal Value'.

Under the Convention, sites are inscribed on a WH list if they are deemed to be of Outstanding Universal - or OUV as we all it - and thus are part of the '*world heritage of mankind as a whole*' and deserve '*protection & transmission to future generations*'.

It is the elected UNESCO World Heritage Committee consisting of representatives of 21 States Parties who decide on whether or not a site justifies OUV, including whether it satisfies one or more cultural criteria, as well as conditions of integrity and authenticity, and has in place adequate protection and management.

Sustaining the OUV of their WHSs in the long-term is thus the over-riding obligation of all governments who ratify the Convention and nominate sites.

It is important to stress here that Governments are not obliged to nominate WHSs – it is an entirely voluntary procedure, but if they do, and if the sites are successfully inscribed on the WH list, then it becomes their duty to ‘*do all it can*’ ‘*to the utmost of its own resources*’ to sustain the OUV of that site. Which is quite a commitment and not one to be taken lightly.

The UK ratified the Convention in 1984 and now has 32 WHSs and continues to nominate sites - one is under evaluation at the moment

With each nomination dossier the government reiterates its obligation under the Convention through setting out how the sites will be protected and their OUV sustained.

To give one example: for Jodrell Bank, our last inscription to date, (John Glen, MP) the then Minister for the Arts, Heritage and Tourism, DCMS, said in his Foreword to the nomination: ‘*We remain committed to identifying and protecting places that have outstanding universal value*’. That is a very clear commitment.

How government deliver their commitment to the Convention varies around the world. In the UK, the government carries out its commitment to protecting WHSs through statutory designations and planning policies and procedures and in particular the NPPF.

But how these tools are used must be tailored to the obligations of the Convention. And the NPPF makes it quite clear that this should be the case. It states ‘*planning policies and decisions must also reflect relevant international obligations ...*’.

So, in using the NPPF for WHSs, the process is not necessarily the same as for other designated assets – as the obligations of the Convention over-arch the planning processes.

As well as the obligations that are inherent in the Convention, further Guidance is set out in Operational Guidelines for the Implementation of the Convention -which are referred to several times in my Proof - they are called guidelines but they are there to be followed.

Thirdly, there is the UNESCO World Heritage Committee, (of which the UK was a member in the early 2000s) that oversees the implementation of the Convention and makes decisions:

The Committee inscribes sites on the WH list if that are deemed to have OUV, ultimately it can take them off if they lose OUV, and in between the Committee considers the State of Conservation of sites through reports and discussion at their annual meetings. And during the last decade and a half, a report on Westminster has been considered ten times.

Obligations of States Parties are on-going and involve not only engagement with the Committee but also with the World Heritage Centre, the Secretariat for the Convention, and ICOMOS, one of the three official Advisory Bodies to the World Heritage Convention, as defined in the Convention.

And we are fortunate at this Inquiry in having the views of the WH Committee on the proposed Holocaust Memorial, as well as those of ICOMOS.

And I refer to both of these in some detail in my Proof of Evidence.

2. TOPIC 2: The SoOUV is now a key tool that most WHSs now have

As I have just outlined, the idea of OUV underpins the Convention, and it must be sustained for the long-term.

So how a site justifies OUV is of crucial importance to those responsible for its protection and management, and for the determination of planning applications that might be in or near a WHS. The only way we can properly assess potential impact on a WHS is through considering impact on its OUV.

It is relevant here to recall that in the early years of the Convention, Committee decisions only recorded a very brief resume of how newly inscribed sites satisfied the criteria (probably to reduce the cost of typing), but then, back in the 1980s when Westminster was inscribed, I have to say that there was somehow a sort of

shared understanding that everyone ought to know why such a site was of international importance.

But by 2005, things had changed. The Committee then took the decision to provide all WHSs with a Statement of OUV – setting out precisely why they had OUV. From that date all new inscriptions had such a statement, and for the five hundred or so sites that were already on the WH list, retrospective statements were drawn up – not retrospective OUV but retrospective statements of what had been agreed at the time of inscription. These were drafted in collaboration with SPs and then approved by the Committee.

The idea of these SoOUVs is simple: they are a sort of birth certificate for each site which it has to carry throughout its whole existence and use actively to guide its protection and management.

Here, I should point out that OUV is fixed at the moment of inscription and cannot change– which is a crucial difference between WHSs and some other designations.

The great advantage of SoOUVs is that they are also fixed in time, at the moment they are approved by the Committee, and moreover are an incontrovertible statement.

An SoOUV has five sections that together define OUV. These are the Brief Synthesis that explains what the property is and why it has OUV, the Criteria that are satisfied, the Conditions of Integrity and Authenticity, and the Requirements for Protection and Management. And I stress that it is the whole SoOUV, not just the criteria as was suggested during the cross examination of Robert Ayton, that defines OUV.

In the Westminster SoOUV, the section on Protection and Management sets out in considerable detail how the SP intends to deliver what is needed to sustain OUV – such as through the NPPF, as well as the London Plan, and local plans. These details are set out in my Proof of Evidence as well as how since the Westminster SoOUV was approved, there have been improvements made to the NPPF in

response to recommendations made by one the latest Reactive Monitoring Missions – as explained by the State Party in its 2018 Report to the World Heritage Committee.

Together the NPPF, combined with local WH policies, should provide an ample basis on which to protect the Westminster WHS and its setting.

So, from this I hope it is clear that we now have a good framework that sets out precisely how a WHS has OUV and precisely how a government considers that it will protect that OUV.

3. TOPIC 3: Methodology for Assessing Impact.

In the first ten years of this century, the development pressures on WHSs were rapidly increasing - in all regions of the world, not just Europe.

The Committee began to consider what sharper tools could be put in place to help SPs deliver their obligations – and indeed many SPs were requesting such tools.

A SoOUV was the first such tool; but it also paved the way for a process to be designed to assess impact.

In 2011, the second tool emerged. This was the ICOMOS Guidance on Heritage Impact Assessments for cultural World Heritage sites. Of course, EIA already existed, and they could include cultural parameters, but what was needed was something specific to cultural WHSs that was based on OUV and could be used in any country of the world – in other words it was not tied to any one planning system.

The HIA process has been an enormous success. The Committee requested SPs to follow the Guidance, and it is now part of the Operational Guidelines– but it has also gained wings and been adopted around the world.

The HIA takes as its starting point the SoOUV and sets out a rigorous but fairly straightforward methodology for assessing potential impact on OUV.

The basis for that methodology are the attributes of OUV.

As OUV is a value, in order to understand impact, there is a need to understand what attributes convey that value. These attributes can be tangible, such as buildings, parks, urban grain, views, or intangible such as processes or associations.

The HIA methodology considers which attributes might be impacted by a proposal, the strength of impact on each of the attributes and then combines these findings to assess overall impact on OUV.

I have set out all this in some detail in order to stress that these tools - the SoOUV and the HIA Guidance – are now central parts of the World Heritage processes set out by the Committee and incorporated into its Guidance. And in the UK the NPPF mentions the SoOUV, and the NPPG specifically refers to the ICOMOS HIA Guidance.

4. TOPIC 4; The Applicant's methodology

For reasons that are not clear, this HIA Guidance was not followed for the impact assessments that have been carried out for the Holocaust Memorial project. Notwithstanding assurances in the documents that the authors were mindful of the ICOMOS Guidance and have undertaken their assessments in line with the Guidance, only the Annex of the Guidance was fully referenced and the HIA methodology has not been applied as intended.

No stand-alone HIA was undertaken, nor was there a discrete impact assessment for the WHS, and perhaps most importantly the SoOUV did not form the basis of the assessment process.

So, the two key tools that WHS now have were not used and this has led to significant gaps in the way the analysis has been carried out.

There has been no clear definition of attributes of OUV or precise identification of those that could be impacted and the evidence used is mainly visual. Such a visual analysis is not adequate to assess fully impact on OUV in terms of its historical, cultural and political associations

The whole Proof is thus predicated on flawed identification of attributes of OUV and even those that have been identified have not been used to carry out a systematic assessment of impact using the methodology of the ICOMOS Guidance.

We have not been provided with a robust assessment of impact on the attributes of OUV – only two attributes were mentioned – but not where they came from.

The level of detail cannot be said to be commensurate with the very high importance of the WHS. Just mentioning OUV without analysing what it means for specific aspects of the WHS is not a reasonable basis for assessment.

A further major gap is the lack of any analysis of the setting of the WHS and in particular the part that encompasses VTG . Although the VTG are described as a place, and how it has evolved over time has been set out, there is no analysis of how the VTG as we see it today supports OUV and contributes to authenticity and integrity, or, in the words of the NPPF, how the setting contributes to the significance of the heritage asset.

Had a full analysis of the setting been undertaken, it would have become very clear that the Palace was designed to be dominant on the landscape, that the dignity of its architecture reflected its central role in the governance of the State, and that its setting was crucial to allow a full understanding of the symbolism with which it is endowed. VTG are an extremely important part of the setting and were laid out to support the Palace of Westminster in providing a space where it could be not only seen to great advantage but its full meaning understood.

And turning to the conclusions, instead of a formal assessment of potential impact, we have a narrative that provides judgments. The conclusions of the impact assessment process are thus unanchored and unjustified.

We are provided with the conclusion that the development once completed would have a *‘Moderate Beneficial effect on the heritage value of the: - Palace of Westminster, Westminster Abbey and St Margaret’s Church World Heritage Site....’* without any understanding of what that means. OUV cannot be improved – so what value receives this beneficial impact?

And similarly, for the setting, *‘The high quality of the design of the memorial, the national resonance of its function, and its relationship with the buildings of the WHS would make a positive contribution to the Outstanding Universal Value of the World Heritage Site, as an important, and entirely appropriate, development in its setting’*. In what way the contribution of the memorial to OUV could be seen as positive is not explained, nor why it might be seen as ‘appropriate’ to the setting or have a ‘relationship with the buildings of the WHS’. These are all unsupported assertions.

Potential negative impacts are not mentioned in the EIA in relation to OUV. Whether and how potential negative impacts were assessed, and either found not to exist or found to have been outweighed by positive benefits has not been set out – a major gap.

TOPIC 5: My assessment of the proposals

My Proof of Evidence sets out an assessment along the lines of what in my view would have been in an HIA based on the SoOUV and carried out in line with the ICOMOS Guidance methodology.

To this end I have highlighted in some detail from the official documents associated with the WHS, including the SoOUV and the ICOMOS evaluation, what constitutes the OUV of the WHS and how this value is transmitted through a range of attributes, both tangible and intangible.

What emerges from this is a clear articulation of the Palace’s contribution as a building to the overall WHS, its very clear symbolism, the way these two are inextricably linked, and how the Palace needs to be seen and understood.

The Palace is of *'great historic and symbolic significance'* and a *'vivid symbol of one of the oldest parliamentary institutions in the world'*. *'The instantly recognisable location and setting of the property in the centre of London, next to the River Thames, are an essential part of the property's importance'*. That symbolism was part of the building's design – not something it has acquired later. The power and dominance of the parliamentary system it houses is reflected *'tangibly by the location of the buildings in the heart of London next to the River Thames'*, and by its colossal size. The square Victoria tower was further distinguished as the royal entrance to the Palace and for its exceptional height at the time of construction.

All of these aspects and associations are part of the attributes that convey OUV. The Palace must have the ability to convey its meanings: its authenticity reflects the clarity with which its attributes are understood as contributions to the OUV of the overall WHS.

From the SoOUV, the attributes that convey OUV are clear and relate to its architecture, use and symbolism

- Its Tudor Gothic architectural style that recalls that of the neighbouring Abbey;
- Its overall size, siting and colossal proportions including two tall towers over 90 metres tall, and its long linear façade along the River Thames gave it visibility and status as the single most important state building;
- The design of the Palace as a single entity to accommodate both Houses of Parliament;
- Its Allusions to the past history of the site such as the design of the square Victoria Tower as the royal entrance to the Palace that was intended by the architect to be the most memorable element and in 1858, when complete, it was the tallest secular building in the world;
- As a *'vivid symbol of one of the oldest parliamentary institutions in the world'*;
- And as a Reflection, together with the Abbey and St Margaret's church, of the *'intertwined history of church, monarchy and state'*.

I cannot support most of what Prof Tavernor has said in his evidence, but I do commend his description of the Palace in which he talks about ‘Barry and Pugin’s extraordinary architecture’, and how the ‘southern elevation of the Palace of Westminster’ viewed from VTG is ‘one of the most exceptional buildings of the Western world.’

These quotes also begins to define quite clearly the way the immediate setting of the Palace supports its OUV. Of course, the setting of the WHS extends right round the perimeter but in certain places the immediate setting is more pronounced and more valuable than others. VTG is one place where the architecture of the Palace and its meaning are expressed with the utmost clarity.

Authenticity is all about the clarity with which the meaning of a building is understood; standing in VTG the grandeur and eloquence of the Palace become abundantly clear. The Palace needs the gardens so that it can properly express its full meaning.

Having set out the attributes that could be impacted on by the proposed development and the setting that supports those attributes, it is possible to consider how the proposed development impacts on OUV.

First and foremost, the development will not impact directly on the fabric of the Palace, or on its form and design.

It will though impact adversely on some of its attributes through disrupting its setting and thus the way the WHS conveys its meaning.

The Palace was designed to be dominant on the landscape through its form, size and siting. The dignity of its architecture reflected its central role in the governance of the State, while the Victoria Tower has added symbolism as the royal entrance to the Palace. The setting of the Palace should allow an understanding of the building 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.

I consider that the proposed development of a Holocaust Memorial and Learning Centre in Victoria Park Garden would have a highly detrimental impact on the setting of the Westminster WHS immediately adjacent to Victoria Tower, which in turn would harm appreciation of the overall symbolism of the Tower, a significant element of the Palace, and impact adversely the dominance of the overall Palace in the landscape, both key attributes that contribute substantially to OUV.

At this point I would like to stress that this conclusion is fully in alignment with the recommendations of the UNESCO World Heritage Committee and also with the views of ICOMOS, an Advisory Body to the Committee, both of whom have commented specifically on this proposed development.

The Committee is the arbiter of what has OUV and when OUV is under threat.

In its decision 43 COM 7B.94 at its session in 2019 it set out clearly that *‘the proposed monument and its underground rooms located in Victoria Tower Gardens, as currently presented, would have an unacceptable adverse impact on the Outstanding Universal Value (OUV) of the property’*.

And ICOMOS in its 2019 Technical Review was also clear – it stated that *‘the proposed memorial would not enhance the setting and, as an iconic building, would be seen as competing with the Palace of Westminster, not supporting it’*; and also set out other negative impacts which are included in detail in my Proof of Evidence.

To approve this Memorial and Learning Centre would be to go against the obligations of the WH Convention to protect the WHS and sustain its OUV.

Here I would like to recall what I said earlier that the NPPF acknowledges the need to respect international obligations – such as the WH Convention. Thus, NPPF

cannot be applied to WHSs in precisely the same way as it would be applied to other designated assets – for which there are no international obligations. For WHSs what cannot be accepted is harm to OUV and harm to OUV cannot be offset by public benefits elsewhere. WHS need to be inherited by the next generation.

ICOMOS in its Technical Review clearly sets out that for WHSs the *‘concept of “balancing” [harm against benefits] might be acceptable in other situations, but is not appropriate for a World Heritage property in a context where the State Party is obliged to conserve attributes that contribute to the Outstanding Universal Value of the property’*.

To conclude:

In my view the UK government has demonstrated its commitment to the WH Convention, and there is an adequate planning framework and adequate policies in place for London to deliver that commitment.

The issue at stake is whether that commitment will be respected and those policies will be appropriately applied.

As Peter Bottomley said in his presentation to the Inquiry, the VTG allows an appreciation of the ‘majesty and democracy of parliament’, all of which, in my view, will be completely overwhelmed by what Prof Ganz in his presentation called the ‘Bombastic Narrative’ of the proposed new building.

The small and fragile VTG cannot at the same time allow the Palace to display to the full its symbolic meaning and the Holocaust memorial to pronounce the strong messages associated with it, which need to be heard. As with many others taking part in this Inquiry, I support strongly the idea of a Holocaust Memorial but not in VTG: such a memorial needs space, space for quiet contemplation, much more space than there is in VTG, and space that does not have competing associations that support the OUV of the Westminster WHS.

In my view, the proposal would have a highly significant negative impact on the OUV of the WHS amounting to 'substantial harm' to a designated asset within the meaning of the NPPF and should not be supported.