**CLOSING SPEECH FOR BARONESS DEECH**

*Introduction*

1. I don’t claim any expertise in planning law so I will leave that for the most part to others. I am going to assume that it will be necessary, if the Inquiry is to approve this project, for the Inquiry to conclude that the public benefits of the project outweigh by some considerable margin, the obvious harms of building a substantial structure in a registered public park in London, much used and loved by all who have contact with it. We have heard about the provisions of the National Planning Policy which make special provision for the grant of planning permission in the case of registered parks: paragraph 194 requiring clear and convincing justification, and in the case of existing open space: paragraph 97. Others are better qualified to address you on that will do so, but I do want to draw attention to the cavalier attitude of one of the proponents of this scheme, as revealed by Lord Pickles on behalf of the applicants. He claimed that paragraph 97 could be satisfied by viewing this Holocaust Memorial and Learning Centre as a “recreational provision”.
2. I submit that the applicant is going to have do much better than that if it is to persuade this Inquiry of the public benefits of this scheme. So in that connection, I want to make three points regarding the alleged public benefit of this project:
   1. First: In order to determine the magnitude of the public benefit of the proposed scheme, consideration must be given to the concept of “public benefit” and how that is to be determined. It cannot be determined on the mere assertion, for or against, by a parade of interested, some famous, people, no matter how deeply and genuinely felt. Nor is it something the Inquiry can determine by making assumptions about what constitutes the public interest or good. The Inquiry must be largely influenced by the official reports of bodies specifically set up by the state to consider and determine, after conducting extensive consultation and investigation, how the public interest would be best be served in this case. In the present case that is the Holocaust Commission which was created for this very purpose.
   2. Second, I am going to submit that it is logically and factually impossible to determine the appropriate magnitude and weight of the public benefit without considering in depth the question of alternatives. If that were not the case, then every park or open green space in the UK is available for the construction of, say, a badly needed hospital or other essential service, the public benefit of which is otherwise not in dispute. Under this heading I will also deal with the way in which this site was chosen and any alternatives summarily dismissed, and the alleged justifications put forward for that.
   3. Thirdly, I will submit that the huge controversy which this location for this project has generated considerably undermines and reduces the extent of any public benefit said to be generated by its construction.

**Public benefit and how to determine it**

1. The Prime Minister’s Holocaust Commission was established in January 2014 as a cross-party and society wide effort to consider what more Britain should do to ensure that the memory of the Holocaust is preserved and that the lessons it teaches are never forgotten. The Commission ran a national Call for Evidence, which received almost 2,500 responses and included one of Britain’s largest ever gatherings of Holocaust survivors at Wembley Stadium as well as a competition for young people which received more than 700 entries. [*That is a quote from page 3 of the Foundation’s Site Briefing CD14.6*]. The Commission’s Report is overwhelmingly the primary source to which this Inquiry must refer when it comes to determining the public benefit of this project. It is not for the applicants, or the individuals who have been heard, to second-guess or gainsay or revise what that official body determined.
2. It carried out, over a period of a year, a thorough and detailed investigation and came up with a range of recommendations which were accepted by the government and the opposition of the day. The question of public benefit was uppermost in its mind and its findings and recommendations are of the utmost importance on this topic. The requirements it determined to achieve were [see the Recommendations in the Executive Summary on page 13]:
   1. A striking and prominent new Memorial in Central London.
   2. A physical *campus* (note the word, used repeatedly: page 13, penultimate para with its associations with a university campus - and an online hub that would bring together a network of the UK’s existing Holocaust education partners, seeking to advance Holocaust education in every part of the country. The learning centre, which was to be part of the campus, would *include* a lecture theatre, classrooms, and the opportunity for those who want it to locate their offices or set up satellite offices there, within the wider physical campus. It recommended that the LC should include the Imperial War Museum’s Holocaust Exhibition, upgraded and expanded.
   3. There is no doubt what this meant. The whole point about it was that whilst the Memorial would be in central London, the campus including its LC would be the bringing together of the country’s educational partners to direct and govern Holocaust Education throughout the country. Indeed, two of its four findings [page 12: executive summary] were that existing holocaust education was failing to reach significant numbers of young people and there was inadequate support for regional projects.
   4. I quote from page 14, 2nd para: “In driving a renewed national effort to extend high quality Holocaust education to all parts of the country, the **Learning Centre** **and its partners** would seek to transform the way Holocaust education is delivered.”
3. It is striking that the Commission’s recommendations in the executive summary with regard to a LC mentions visitors to the site only once and without further elaboration (page 13, under heading (ii)). In the next 11 paragraphs, the Commission deals at length with what it saw as “critical”, i.e. the national bringing together of existing Holocaust education partners in order to give effect to the national campaign on this topic. The “exhibition space” aspect of the Memorial for visitors is a minor aspect of the overall project.
4. Yet, as we can see from the plans, and we have learned from the witnesses, that is essentially all that is now envisaged.
5. That it was understood by everyone who read the Commission’s Report to mean what I say above, is confirmed by the Foundation set up to implement the Commission’s recommendations. It is made absolutely clear from the Foundation’s criteria in their document entitled Search for a Central London site. That document, which was created in September 2015 to lay down criteria in the search for suitable site for the project recommended by the Commission, first summarises what I have said above, on page 4, and then specifies, inter alia, the following criteria to meet the Commission’s objectives [page 6]:
   1. A physical campus of at least 5000 sq. m (and the summary on page 2 states that sites of between 5000 – 10000 sq. m of built space over no more than three contiguous floors would be considered).
   2. Apart from the usual reception, visitor orientation, restrooms, cloakroom and first aid, a physical campus, as envisaged by the Commission, with facilities to host lectures and seminars, and to run educational courses and workshops: it mentions permanent and temporary gallery spaces, four learning rooms, an auditorium with tiered seating for at least 150 people, two meeting rooms for events and hire.
   3. Provision of office space for staff from the Foundation and other Holocaust organisations to locate offices or satellite offices so as to bring together a network of Holocaust education bodies;
   4. Quiet contemplative space for reflection and commemoration or interfaith prayer room;
   5. The site must enable gatherings of up to 500 people for commemorative events;
6. Very little of this will be achieved in the planned project you are asked to recommend because the whole idea of a campus, with a myriad of different teaching, learning and research offices and rooms over three floors, with the intended interaction between numerous nationwide outside organisations, with classrooms, lecture rooms, and auditorium, has all been severely curtailed if not actually abandoned.
7. In its place is a much smaller exhibition centre (those are the words used by Mr Balls and Lord Pickles) to supplement the Memorial, only part of which can be divided into four rooms, taking up only 40% of the whole, which is in any event well below even the minimum of 5000 sq. m which the Commission specified.
8. In reality, the public benefit being urged upon this Inquiry is no longer that of a university style campus, a nationwide centre of Holocaust teaching and research, a hub of activity for organisations throughout the country which are devoted to teaching about and learning from the Holocaust.
9. It is to be a sort of information centre for the Memorial to enhance the experience for visitors. One can see why that is absolutely necessary for this project because the Memorial in and of itself has no obvious connection with the Holocaust or its victims. Its designer expressly excluded any Jewish or religious symbolism [*para 6.2: we wished to avoid using overtly familiar pictographic symbols such as the Star of David or Hebrew lettering..”*]. It is 23 metal blades or fins located in semi-parallel in a public park. By itself, it says nothing to anyone. If you didn’t know what it was supposed to be you would have no idea of what you were looking at. So, it needs and will get an information centre or exhibition centre below it to tell you what it is you are supposed to think of it.
10. By way of interjection, if those responsible for this exhibition or information centre do not want to appear ridiculous, I would suggest they avoid mentioning in the exhibition centre the alleged connection between the spaces between the 23 blades and the “22 countries in which the Jewish communities were destroyed” by the Holocaust as initially claimed by Mr Bruno to explain the significance of the 23 fins. When challenged on this he immediately admitted that there was no agreement on the number of countries in which Jewish communities had been destroyed and it was actually between 19 and 26 countries, depending on how you counted them. The entire notion was subsequently demolished by the foremost authority on the Holocaust in this country if not the world: Professor Sir Richard Evans. I also suggest they give wide berth to the preposterous claim that the Memorial would “recall” to passers-by the English meaning of the Latin word “Holocaustum”; which I for one had never heard of, and there cannot be more than a handful of people in this country who have ever heard of that. They should also avoid mentioning the surprising claim that the spaces between the blades “recall” the tunnels in Jerusalem or the sacrifice of Abraham. I think we can safety predict that all those claims will have their last outing in the course of this Inquiry.
11. It is precisely because the recommendations of the Commission have NOT been achieved that had become necessary to think up and advance new justifications for the significance of the Memorial and why it and Learning Centre are for the public benefit. Consider this: if the Commission’s proposals for a campus of joint activity and offices of all Holocaust educational partners had been achieved, with 5000 – 10,000 sq. m of space over three floors on a less constrained site in central London, offices, teaching spaces, a big auditorium, exhibition space, gathering space and so on, there would have been absolutely no need to consider the nature and content and the detail of the education and learning and research that would be conducted there by these various parties. And that is absolutely as it should be. What purpose would be served by debating at this point, in this planning Inquiry, what is going to be studied and taught, whether it will celebrate the British response or be critical of it, whether it will give due attention to this aspect or that aspect, whether it will include references to victims who were not Jews, whether it will be “warts and all” or whatever. It would have been a centre of Holocaust study and education for the whole country, with the involvement of all national and local Holocaust organisations, and that would have been enough justification for its existence and public benefit.
12. If the Memorial had been proposed in any other location, no-one would have thought it necessary to advance cod-psychological speculation about what visitors will think as they emerge and gaze at the sky or the skyline, what associations will arise in their minds about the nature of Britain’s constitutional arrangements, Britain’s history and democracy, and so on. How absurd it would it all have seemed to be debating now in a planning Inquiry whether there is a public benefit if the learning and research leads to any particular conclusion about the relationship between Nazism and democracy, or between mass killing and Parliamentary government, or between any topic arising from the study of and research into the Holocaust, and anything else.
13. Yet that is what it has come to: One witness says that the Memorial gains its strength from being in The Avenue of Power, another says that it must be close to Parliament like the Berlin Memorial is close to the German Parliament ((actually about one km away and the German Parliament was burnt down before the Holocaust began). Many predictions have been made about how visitors will react or what they will think, as if one could pre-determine it or even know it. Perhaps the most sensible reality check on all this psychological speculation came from the teacher, Ms Victoria Boyarski, who said that a typical school child would ask why is it next to Parliament when Britain and its Parliament didn’t persecute the Jews. So its location might thus turn the experience that was intended by the Commission as being for the public benefit: i.e. to remember the Holocaust, honour the victims and understand its lessons, into one in which the prime question is: what’s it doing there?
14. All of this desperate attempt to link the Holocaust with the location of this memorial and learning centre next to Parliament is not just ex post facto rationalisation, it is deeply subversive of the very purpose of the Memorial: as the Commission recommended: I quote from page 13 (the executive summary) the new memorial must “serve as the focal point of national commemoration of the Holocaust. It should be prominently located in Central London to make a bold statement about the importance Britain places on preserving the memory of the Holocaust.” And the final sentence: “This will stand as a permanent affirmation of the values of our society.”
15. In that sentence the word “**This”** is: the fact that our country has built the Memorial in central London. It is that which stands as an affirmation of the country’s values. This has nothing to do with role of Parliament during the second world war, our constitutional arrangements as a democracy, or our system of government. The Commission considered that the very building of the Memorial in central London would express Britain’s values. That is expressed whether it is built in VTG or anywhere else in Central London.
16. The public benefit in building a HM and LC as envisaged by the Holocaust Commission existed before any of this ex post facto justification was thought up, and it exists quite independently of it. If that Memorial and LC were built a km or a mile away from VTG it would not add or subtract one iota from the public benefit of having that new Memorial or LC as envisaged and recommended by the Commission. All the arguments which have had to be adduced by the applicants in order to justify the location of their proposed Memorial and exhibition centre, as it’s more accurately described, are highly debatable and challengeable: Dr Gerhold has done a lot of work analysing the claims made in this connection, and shown them to be speculation and debateable.
17. My point is that one could think up and present these sort of connections in the case of just about any space in central London. Should it be located in the centre of Mall, close to Buckingham Palace. This could be said to demonstrate the role of the monarchy during the second world war and its relationship with the holocaust etc etc. Or if it was located in Whitehall, this would be in the Avenue of Power, close to the seat of government where decisions were made with regard to Britain’s role during the war, as opposed to Parliament itself. Or should it be on the other side of the river Thames, gazing upon Parliament which would show that democracy is impermanent and flows like water, or in front of Westminster Abbey recalling the role of the church, and so on and so on.
18. One of the Interested Parties took the proponents’ arguments in this regard to their logical extreme conclusion. If building it in proximity to Parliament is so overwhelmingly in the public interest, why not build it in the lobby of Parliament itself? That is not an absurd question: once you exclude any need to consider alternatives and accept that the Inquiry can decide for itself what the public benefit is without reference to the recommendations of the Commission, then what argument could be successfully raised to resist a planning application to build a Memorial and small LC in the in lobby of Parliament itself?

**The Question of Alternatives**

1. It is no doubt going to be argued - we have already heard suggestions to this effect - that this Inquiry is not concerned with the location of a Holocaust Memorial and LC at the Imperial War Museum (IWM) or anywhere else. It is only concerned with whether the HM & LC should be built here, in VTG.
2. Others will deal with the law, but I would like to pose a question by giving an example that illustrates the problem: what would happen in the following example: Let us assume that that part of Westminster were seriously short of a hospital, and that there was an overwhelming public need for a new hospital, and location and medical experts were appointed to find a suitable site in the area, who reported that there were 24 possible sites in Westminster which might serve to provide this highly needed facility. If it were shown that three of those sites was particularly well suited, maybe not ideal without some changes but very suitable and which would meet the overwhelming public need. Let’s also assume that someone charged with finding a site had a flash of genius and said: there’s this open park called VTG, let’s cut out all the debate and the difficulty of acquisition and paying for it, let’s just site it in the park. The need for the hospital is overwhelmingly in the public interest; indeed, it’s literally a matter of life and death for the local population who do not have adequate facilities.
3. My question is this: if a planning Inquiry were held, would the fact that 24 alternative sites had been identified, with three or four of them very promising, and that these had never been properly investigated and considered, would all that be completely irrelevant? If it turned out that one of the sites was already a medical facility keen to take on or incorporate the new hospital, would that also be irrelevant? Would it be said that the Inquiry is only concerned with whether this hospital should be sited in this park and nothing else. Is that the law? I don’t believe it is but I’ll leave that for others to explain the answer to this problem. If it were the law, every single park or public garden in the country would be in jeopardy of the government or local authority or health authority deciding to site a badly needed new hospital in a public park because it refused to justify the rejection of any of the alternatives.
4. But quite apart from the legal answer to my question, I would submit that the question of whether there is an acceptable alternative location is logically and factually fundamental to the finding that there is a public benefit in siting a proposed building in this park sufficient to outweigh the disadvantages or harms of the building in the park. Without considering the possibility of alternatives, how much weight, if any, can be put on the public benefit. It cannot logically exist independently of the alternatives.
5. In the present context, it is not even open to the proponents of the scheme to say that there is no evidence about the availability of any alternative site. Others can deal with some of the other candidates, but I want to deal with one particular candidate which is obviously an alternative available site.
6. In this case there is the clearest possible evidence that the Imperial War Museum would have been available as a highly suitable, indeed desirable, site for this project. It was identified by the Holocaust Commission as one of three sites. As I understand it, the IWM welcomed the opportunity and offered to build a new wing to house it. There are plans or concepts for plans by Sir Norman Foster. It is a central London site, it is very high status, iconic, very accessible to individuals and coaches of individuals, already well used to vast numbers of visitors every year, and organised to receive and accommodate them safely and comfortably. Moreover, it already has a Holocaust exhibition which has been recently expanded so there would be a case of avoiding duplication and building on what already exists. That factor was expressly mentioned by the Commission.
7. If it was not good enough for some reason, it was incumbent on the proposers of this scheme to show this Inquiry as part of their case that the public benefit outweighs any harms, in the most detailed and thorough way why the apparent benefits of the IWM site are inadequate or unsuitable to meet the objectives of the Commission, accepted by the government, and why there is no realistic alternative to siting it in VTG. They have done nothing of the kind. They have studiously avoided any consideration of that alternative.
8. Instead, as I’ve already mentioned, the proponents of the scheme have dreamed up a raft of obviously ex post facto justifications and rationalisations for artificially connecting the Holocaust with Parliament building and, in case that is not enough or fails, with the other small statues and memorials already in this garden, renamed a “garden of remembrance”. In the case of the one of the memorials, it turns out, thanks to the research of Dr Gerhold, it will be remembrance of something that never happened, a most unfortunate juxtaposition with the Holocaust.
9. We could previously deduce that this was all ex post facto rationalisation because not one of these so-called reasons or justifications is to be found in the report of the Commission, or of the site search document of the Foundation itself. The government committed itself to building a HM and Learning Centre in Central London without having to rely on any of this artificial reasoning.
10. We now know for certain, thanks to the evidence before this Inquiry of Mr Balls and Lord Pickles, that all this justification was thought up after the site had been identified. It turns out that the choice of VTG occurred to someone, not even identified, as a “flash of genius” that the Memorial should be placed in VTG. Given the correspondence we’ve seen, it was possibly Lord Feldman with his letter and the response from the Minister concerned. Interestingly, those two letters show that there were no actual reasons expressed for the choice of VTG as the site of the Memorial other reason than it would be close to Millbank where the LC was to be located. Not close to Parliament, close to Millbank.
11. Then, when Millbank fell away, it later occurred to Lord Pickles, in another flash of insight if not genius, to raise the question whether the LC could also be fitted underground beneath the Memorial.
12. Sir Richard Evans pointed out to the inquiry that by the standards of other international memorials and museums, the planned memorial in VTG would be an embarrassment, not an addition to the excellent scholarship already undertaken elsewhere in the UK, at most a duplication of the IWM. Its much heralded new and expanded Holocaust Galleries at a cost of £31m are due to open next year. They will place Britain at the forefront of international comparison.
13. The way in which this has come about, and the complete absence of any proper explanation for the rejection of the alternatives makes it impossible to conclude that there is any measurable and measured public benefit outweighing the disadvantages or drawbacks inherent in situating a large project such as this in a public London garden or park. If it were the only such location in central London, it might well be argued that it is necessary to destroy all or part of the park in order to build this vital memorial. But without a determination of the alternatives and their viability and availability, no sufficient conclusion be reached as to the extent and strength of the public benefit in the weighing up process.

**Controversy**:

1. This is my third point. One thing is now clear from the evidence and submissions to this Inquiry: the decision whether to permit this Holocaust Memorial and Learning Centre to be built in this location (VTG) **is deeply controversial**. Whether there should be a Memorial to the Holocaust and a place of learning about the Holocaust in the Central London is not controversial. It is a matter of great regret that the siting of this project should have raised so much controversy, not just amongst the planning experts on trees and heritage and so on, but among scholars, amongst teachers, amongst survivors of the Holocaust and their descendants, amongst the Jewish community, and of course with and amongst the residents of the area.
2. The fact that it has become so extremely controversial is in itself a fundamental challenge to the alleged public benefits of this scheme. Consider this: if it were proposed to build the Memorial and Learning Centre on the campus of the Imperial War Museum, with a new building to house the LC as envisaged in the Holocaust Commission’s Report, and a fitting memorial there or nearby, there would be almost no opposition to such scheme. Certainly not from the IWM itself, which initially offered to host it there, not from the Scholars involved in Holocaust research and study, not the from Commission set up by the government to consider and advise on this very question, and which originally envisaged that it would be there. Not from the Foundation, not from the survivors, not from the Jewish community, and likely not from the residents of the IWM who are used to living with a major public institution visited by millions each year. There might have been a few cranks, but who could sensibly have opposed it.
3. There would have been no need to compose ever more colourful, often inconsistent, post-hoc justifications for siting it in its location, no need to indulge in absurd pseudo-psychological speculation about the thoughts visitors would have as they emerged from the experience, no need to think up imaginative “links” between dissimilar events and dissimilar places. No need to think up grandiose names such “the garden of remembrance”, the “avenue of power”. It would obviously be right to have a Holocaust Memorial, and obviously be seen by everyone as right to site it in the IWM.
4. But choosing to locate it in VTG in the way that it has, the proponents have done a grave disservice to the cause they wish to advance. And the controversy will, it is almost certain, going to continue and possibly increase. Can one just imagine what is going to happen if, as is all too possible, some security incident occurs? The evidence of Sir David Adjaye showed that they were already concerned about people throwing things from the mound onto the courtyard below. If there is any major or substantial incident the park may well have to be closed. The President of the Board of Deputies said that such considerations cannot be allowed to determine whether to build this or not. She cannot be right. Such a building cannot be built without deep consideration of the security aspects as Lord Carlile and other witnesses have shown.
5. At this stage, given the choices the promoters have, why is it not a legitimate concern, indeed necessity, to consider that situation which might well arise?
6. In their eagerness to advance the choice of this site in preference to all others, the proponents have also ignored the question of the restoration and renewal of Parliament itself. The works to the Palace are due to start soon and to carry on until the mid-2030s. Baroness Deech has submitted to the Inquiry the correspondence from the Accounting Officers of the Commons and the Lords raising concerns about the impact of the memorial project on the infrastructure and security of Parliament now, during any construction period and afterwards. It is inevitable that space in VTG will be needed for works on the Palace for many years, no doubt being filled with scaffolding and the usual clutter appertaining to major building works. It is impossible to see how the two projects could coexist without seriously affecting or even closing the Gardens entirely for the duration. This alone makes virtually any alternative site more attractive in comparison, but of course no attention has been paid to this in pursuance of the “alternatives are not relevant” strategy.
7. If I am right that the park might have to be closed from time to time or for longer periods, it will generate more controversy, making the siting of this HM & LC a source of continuing controversy. All very far from the public benefit which the Commission envisaged and recommended, and which could have been achieved at an alternative more suitable site.
8. In conclusion on behalf of Baroness Deech, I would urge this Inquiry to recommend that consent for this planning application should be refused on the grounds that it has not been shown that the public benefits outweigh the obvious harms. For the reasons I have given, the extent of the public benefit cannot be properly evaluated, and so the weight to be accorded to its building in this park is either insufficient or cannot be said to outweigh the obvious harms.
9. That will not mean the end of this project; it will have the beneficial outcome that it will be sited probably at the IWM or some other more suitable site that is still to be properly identified.

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