



City of Westminster

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**CITY OF WESTMINSTER
PLACE SHAPING AND TOWN PLANNING**

**HOLOCAUST MEMORIAL AND LEARNING CENTRE
VICTORIA TOWER GARDENS
LONDON SW1**

Proof of evidence of David Dorward BA (Hons) MRTPI

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South Team

Place Shaping and Town Planning

City of Westminster

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1. Introduction

1.1 My name is David Charles Dorward. I hold a BA (Honours) degree in Environmental Planning and am a member of the Royal Town Planning Institute. I have 17 years of experience working in the planning profession and for 16 years I have worked for the City of Westminster as a Planning Officer. I hold the post of Area Planning Officer in the South Area Team of the Place Shaping and Town Planning Department. I am familiar with the site and proposals.

1.2 My evidence relates to the called in application for planning permission for:

‘Installation of the United Kingdom Holocaust Memorial and Learning Centre including excavation to provide a basement and basement mezzanine for the learning centre (Class D1); erection of a single storey entrance pavilion; re-provision of the Horseferry Playground and refreshments kiosk (Class A1); repositioning of the Spicer Memorial; new hard and soft landscaping and lighting around the site; and all ancillary and associated works’.

1.3 The planning application was submitted to Westminster City Council by the Secretary of State for Housing, Communities and Local Government. On 5 November 2019, the Secretary of State notified the council of its decision to call in the planning application for its own determination, following a public inquiry.

1.4 On 11 February 2020, the application was considered by the council’s Planning Applications Sub Committee (CD 5.11). The committee unanimously resolved that although the principle of a national memorial and a learning centre to the Holocaust was supported, had the application not been called in by the Secretary of State for Housing, Communities and Local Government, the committee would have resolved to refuse the application for the following reasons:

i. Heritage:

Because of its location, size and design, the proposed Holocaust Memorial and Learning Centre would cause harm to the significance of Victoria Tower Gardens, the Westminster Abbey and Parliament Square Conservation Area, the setting and significance of Buxton Memorial (and other memorials in the Gardens) and the neighbouring grade 1 listed Palace of Westminster, and the setting, significance and outstanding universal value of the Palace of Westminster and Westminster Abbey including Saint Margaret’s Church World Heritage Site. This harm, which is

assessed to be less than substantial, is considered not to be outweighed by the public benefits of the proposed development.

This would not meet policies S25 and S26 of Westminster's City Plan (November 2016) and DES 1, DES 9, DES 10, DES12 and DES 16 of our Unitary Development Plan that we adopted in January 2007. The proposal is also contrary to policy 7.8 and 7.10 of the London Plan (2016) and policies HC1 and HC2 of the Intend to Publish London Plan 2019. This is contrary to section 16 of the NPPF.

Or, if the trees are lost or damaged:

Because of its location, size and design, the proposed Holocaust Memorial and Learning Centre would cause substantial harm to the significance of Victoria Tower Gardens, the Westminster Abbey and Parliament Square Conservation Area, the setting and significance of Buxton Memorial (and other memorials in the Gardens) and the neighbouring grade 1 listed Palace of Westminster, and the setting, significance and outstanding universal value of the Palace of Westminster and Westminster Abbey including Saint Margaret's Church World Heritage Site. It would also harm the settings and significance of the Smith Square Conservation Area, the adjacent listed buildings, Norwest House, Nos. 1 and 2 Millbank and the river embankment wall. This substantial harm is not outweighed by public benefits.

This would not meet policies S25 and S26 of Westminster's City Plan (November 2016) and DES 1, DES 9, DES 10, DES 12 and DES 16 of our Unitary Development Plan that we adopted in January 2007. The proposal is also contrary to policy 7.8 and 7.10 of the London Plan (2016) and policies HC1 and HC2 of the Intend to Publish London Plan 2019. This is contrary to section 16 of the NPPF.

ii. Trees:

Inadequate and conflicting information has been submitted which is not sufficient to permit a proper assessment of the impact of the proposed development on trees within Victoria Tower Gardens, together with the effectiveness of suggested mitigation. As such it has not been satisfactorily demonstrated that unacceptable harm to, and/or loss of, trees would not arise as a result of the proposed development. Damage to or loss of trees would be contrary to policies S25 and S38

of Westminster's City Plan (November 2016), ENV 16 and DES 9 of our Unitary Development Plan that we adopted in January 2007, 7.21 of the London Plan (2016) and G7 of the Intend to Publish London Plan 2019. Moreover, damage and/or loss to trees would be detrimental to the visual amenities of the area, and would have a further adverse effect on the significance of heritage assets (as referred to within reason (i) above).

iii. Open Space:

The proposed development and associated increased visitor activity would result in the loss of public open space and would harm the function of the Victoria Tower Gardens as an open space for active recreation and relaxation. This would be to the detriment of those who live in, work in, and visit the area.

This would not meet policies S35 of Westminster's City Plan (November 2016), ENV15 of our Unitary Development Plan that we adopted in January 2007, and the advice set out in Westminster's open spaces and biodiversity strategy - 'A Partnership Approach to Open Spaces and Biodiversity in Westminster' (March 2019). The proposal is also contrary to Paragraph 97 of the NPPF; policy 7.18 of the London Plan (2016) and G4 of the Intend to Publish London Plan 2019 which aim to protect and enhance open spaces.

- 1.5 My evidence primarily addresses reason for refusal (iii), concerning impact on open space. I will demonstrate that the proposals and associated increased visitor activity would result in the loss of public open space and would harm the function of the Victoria Tower Gardens as an open space for active recreation and relaxation.
- 1.6 My evidence also provides a summary of the assessment and conclusions of other key planning considerations relating to Heritage (reason i) and Trees (reason ii). These matters are addressed in detail in the Proofs of Evidence by Robert Ayton (Heritage) and Mark Mackworth-Praed (Trees).
- 1.7 My evidence includes an overall assessment of the planning balance between the proposals benefits and harm. I will also address the background to the application and the site selection process.

1.8 My evidence is presented under the following sections:

- Section 2 - describes the site's characteristics and function as a public open space for active recreation and relaxation;
- Section 3 - provides an analysis of the proposal's impact on Victoria Tower Gardens as a public open space for active recreation and relaxation;
- Section 4 - provides a summary of the assessment, policy context, and conclusions of the impact on trees;
- Section 5 - provides a summary of the assessment, policy context, and conclusions of the impact on heritage;
- Section 6 - provides a summary of other policy considerations;
- Section 7 - provides an analysis of the applicant's case;
- Section 8 - considers alternatives to the current proposal; and
- Section 9 – concludes with an analysis of the Planning Balance.

2. Site Characteristics and function as a public open space

- 2.1 The proposed location of the Holocaust Memorial and Learning Centre is in Victoria Tower Gardens which is an area of publicly accessible and usable green space managed by The Royal Parks. The Gardens are publicly accessible between 7.30am and dusk in summer or until 7.00pm in winter.
- 2.2 The garden's open flat lawn areas make up the majority of the central core. The lawned areas are enclosed by paths around the periphery and crossing to features such as the Burghers of Calais and Buxton Memorial. The Gardens also include the Spicer Memorial, Horseferry Playground and a refreshments kiosk at its southern end towards Lambeth Bridge.
- 2.3 The London Parks and Gardens Trust have produced a report titled 'Victoria Tower Gardens: Conservation and Significance Statement' (January 2019) (CD 5.23) which analyses the gardens in detail. It discusses its significance in terms of its contribution to health and wellbeing of the local community, visitors and workers, therefore its 'social' significance, as well as biodiversity. It summarizes the Garden's key social and ecological significance lies in the following:
- its importance as a valued open space for recreation and relaxation as refuge from the noise and frenetic activity of the nearby major tourist areas, both for visitors and local residents and workers
 - its amenity provision in an area with very limited access to open space and nature
 - its potential as wildlife habitat, providing cover and food in a wildlife corridor in a very heavily urbanised area
 - its mature tree growth mitigating noise and air pollution, particularly given the characteristics of the London Plane.

I agree with this assessment.

- 2.4 The London Parks and Gardens Trust report (CD 5.23) further outlines the garden's 'social' values: "The gardens hold demonstrable community significance for the many communities and workers living-in and visiting this densely populated area of Westminster. They value it as a quiet, green oasis as well as a venue for play, picnicking, visiting the sculptures (particularly the Buxton, Burghers of Calais and Pankhurst), ballgames, fitness training, walking, dog-walking and enjoyment of nature as well as local activities and events. The location makes the Gardens an important respite for office workers and tourists visiting the area. Its contribution to

the local population's health and wellbeing is considerable. Most local residents do not have any access to gardens and Victoria Tower Gardens provides access to nature and open space which offers considerable health benefits".

- 2.5 Due to the location close to major tourist attractions and the view of the river and the Houses of Parliament a significant proportion of visitors are tourists.
- 2.6 The garden's social and community significance as outlined in paragraphs 2.3 – 2.5 are demonstrated in many of the planning application's consultation responses received from local residents, local resident's associations, and from those who work in, and visit the area.
- 2.7 The gardens are well used. This is evident from my own experience of regular site visits at various times of the day throughout the year. Section 9.2, Figure 17 of the Transport Assessment (Environmental Statement (Volume 5) Appendix M) (CD 6.39) shows the occupancy of the park throughout the day in the baseline scenario. The baseline usage of the park on a Saturday was recorded as a total of 8,314 entries, with peak occupancy of 322 people. On a weekday the total number of entries was 5,895 with peak occupancy of 384 people. These figures were clarified in Land Use Consultants Final Review Report of the Environmental Statement (dated October 2019) (Section 16, p133) (CD 6.45).
- 2.8 The garden's contribution to the local population's health and wellbeing is considerable. In this area of Westminster, many local residents do not have access to private amenity space or private gardens. Victoria Tower Gardens provides access to open space and nature which can offer considerable health benefits. The gardens provide a vital service particularly for residents within Westminster's St. James's and Vincent Square Wards. The Westminster City Ward Profiles 2018 (CD 4.17) indicate that within these wards a very significant numbers of children are obese (23-30%), and also that these wards are in the 30-40% most deprived in the UK for the average overall rank. This rises to 40-50% for some local areas within these wards near to Victoria Tower Gardens, making the benefits of the play and open space provision to the health and well-being of the local residents very important.
- 2.9 Victoria Tower Garden's significance is as a valued public open space for recreation and relaxation, as a place of refuge from the noise and frenetic activity of the nearby major tourist areas, for those who live in, work in and visit the area. The gardens social significance contributes to the health and wellbeing of the local community, visitors, and workers.

3. Impact on Open space

Quantitative and Qualitative Impact

3.1 The council aims to safeguard existing public parks and open spaces for active recreation and quiet relaxation. The size and form of the proposed development will change forever and harmfully the use of a well-used and cherished public park. The Holocaust Memorial and Learning Centre would occupy a significant part of the central lawn area and reduce the quantity of freely available open space within Victoria Tower Gardens. It is also considered that the development and its associated increased visitor numbers would reduce the quality of the remaining space.

Proposed Development

3.2 A key issue with this application is the principle of introducing development of the size and form proposed within Victoria Tower Gardens, which is a Grade II registered park and garden and area of public open space and recreation. The proposed Holocaust Memorial and Learning Centre would occupy a significant part of Victoria Tower Gardens. Some of this will be covered by a grass mound (with its projecting fins) and some by buildings and hard and soft landscaping.

3.3 The spaces between the fins of the Memorial will form the entrance to the Learning Centre, which will be located principally below the gardens and laid out over two levels; a basement and mezzanine level. This will require excavation of the site to a depth of approximately 8m and would provide an internal floor area of approximately 3258 sqm.

3.4 The planning application form (CD 6.2) states that the total area of the gardens is 16,300 sqm. The applicant's red line site plan does not extend around the entire gardens as it does not include the northern area of the gardens adjacent Parliament beyond the Burghers of Calais Memorial. The applicant confirms the red line plan does not extend beyond the Burghers of Calais Memorial because that part of the gardens is not required to facilitate the development.

3.5 The London Parks and Gardens Trust consider the total area of the garden is 19,078 sqm (CD 5.23) whilst the Greater London Authority (CD 5.14) in their consultation response consider it to be 25,000 sqm. My own measurement found that the total area of the garden is

approximately 19,000 sqm (including the area outside of the applicant's red line adjacent to Parliament).

- 3.6 The applicant confirms the footprint of the proposed development is 3,438 sqm and that following development, the area of park no longer freely accessible is 1,429 sqm. This area includes the entrance pavilion, memorial courtyard, and memorial fins, which would be enclosed by a secure perimeter.
- 3.7 The grass mound with its projecting memorial fins would cover the northern end of the learning centre. The applicant confirmed that the grass mound measured approximately 700 sqm (letter by DP9 dated 10 February 2020) and this figure was stated in the council's committee report (dated 11 February 2020) (CD 5.11). Following further review, I calculate that this area measures approximately 2000 sqm.
- 3.8 The proposals are not supported with a plan to demonstrate these areas referred in paras. 3.3 to 3.7.
- 3.9 The grass mound would cover the learning centre and it is intended to be a freely accessible area for the public up to a defined boundary near its southern edge towards the memorial fins. The grass mound would replace a significant part of the existing central flat lawn area, which makes up the central core of the park and which is currently used for informal play and recreation (as described in section 2).
- 3.10 The existing Horseferry Playground, Refreshments Kiosk, and Spicer Memorial at the southern end of the site are to be retained but repositioned further south of their current position by approximately 9.6 metres. The Horseferry Playground would be redesigned and a new refreshments kiosk provided, positioned in the southernmost portion of the site, close to the existing public toilets. The proposed location of the memorial and learning centre would separate the Horseferry Playground from the garden's remaining reduced lawn area.
- 3.11 In addition to the physical works, the proposals would generate a significant amount of increased pedestrian activity within the park. The number of people who are projected to be in the gardens at any given time compared to the existing situation is clarified in Section 9.2, Figure 17 of the Transport Assessment (Environmental Statement (Volume 5) Appendix M) (CD 6.39). Paragraph 9.2.3 of the Transport Assessment sets out that the

number of pedestrians inside the gardens will increase to a maximum of 1,269 people at any one time (compared to the existing peak occupancy of 384 people).

- 3.12 The number of ticketed visitors to access the secure area (Memorial Courtyard and Learning Centre) is expected to be 3000 per day, with an additional estimated 7000 entering the park to view the memorial only (3.65 Million total new visitors per year). These figures are set out in section 4, page 16 of the Visitor Management Strategy (dated December 2018) (CD 5.8). The number of people within Victoria Tower Gardens will increase significantly as a result of the number of ticket holders walking to the memorial and learning centre entrance, and also additional visitors entering the park to view the memorial from the exterior only.

Objections relating to loss of public open space

- 3.13 The proposals have received a significant number of objections on grounds that they would result in the loss of public green open space and harm the character and function of Victoria Tower Gardens, primarily as a space for recreation and relaxation. The Royal Parks, The London Parks and Gardens Trust, The Garden's Trust, local resident's groups including The Thorney Island Society, The Westminster Society, The Cathedral Area Resident's Association, and numerous residents, workers and visitors to the area raise objections on these grounds.
- 3.14 The Royal Parks make the following comments (CD 6.46):
- “Whilst a large part of the education centre will be underground, we estimate that up to 15% of open space would be lost. The impact of the building footprint on the topography will fundamentally change the historic character and associated vistas in and out of the park. The structure will dominate the park and eclipse the existing listed memorials which are nationally important in their own right”.
- “With the expected one million additional visitors to the Gardens, the impact that extra footfall will have in terms of the enjoyment of existing visitors should be assessed as should the impact on regular visitors who will find themselves displaced due to the reduction in public open space”.
- “Overall, the sombre nature of the memorial, the large structure and the necessary security measure around the curtilage of VTG will change the nature of what is currently a relaxed park alongside a unique riverside location.”

- 3.15 The London Parks and Gardens Trust comment (CD 5.23):
“While the applicant’s proposal takes up 7% of the total park area with above ground buildings and the fenced, inaccessible plaza/ramp into the learning centre, the development actually reduces the open, usable, accessible, recreational garden space by 26%, with the additional hard standing, service access and access paths. See our plan (LPGT Plan 3) for area calculations. The Garden was designed so the whole space would be used as a public garden for public *recreation*, not a civic space (of appropriately sombre and respectful tone) with ticket and security buildings, barriers, hedges and hard standing”.
- 3.16 The Thorney Island Society comment (CD 5.21):
“Loss of green space:
a) Note that the Mayor of London has a stated ambition for London to become the world’s first National Park City in 2019. Reducing areas of public parks directly contradicts this aim.
b) We note that the area of hard landscaping will increase dramatically, at the expense of the grass area. We have calculated that the reduction in the grass area will be almost 27% of the existing lawn.
c) Members of the public spend time sitting on the grass and enjoying the views across the grass. The grass areas are particularly valued.
d) We also expect that additional areas of grass will end up fenced off because it is either too steep (near the service entrance) or presents too much of a temptation to people to climb on the fins. Fencing might also be needed around the proposed rooflight halfway down the slope”.
- 3.17 The Westminster Society comment (CD 6.47):
“Victoria Tower Gardens is a peaceful park highly cherished by all who live and work nearby. Parks aren't convenient sites for appropriation, even for noble projects. This proposal ignores Royal Parks protections, overrides the location’s particular significance in history, and overpowers its two existing historical monuments, the Buxton Memorial and the Burghers of Calais”.
- 3.18 The Cathedral Area Resident’s Group comment (CD 6.48):
“Loss of green space. The proposed development would effectively cause the loss of about a quarter of the small and historic green space of Victoria Tower Gardens. In addition, the

proposed structure would dominate the landscape of this Royal Park and damage the intrinsic character of the park”.

- 3.19 The planning application received over 1000 individual objections from local residents, workers and visitors to the area. Recurring themes raised in the objections that relate to loss of open space and harm to the character and function of Victoria Tower Gardens are as follows:
- There should be no development in a public park that leads to the loss of green open space and recreational land;
 - The Holocaust Memorial and Learning Centre will dominate the park;
 - The park would become congested with increased visitor numbers, which would affect other users;
 - The Horseferry children’s playground is reduced in size and segregated from the remaining garden by the memorial and learning centre;
 - The playground will become congested with an increased volume of people using the new refreshments kiosk before or after visiting the memorial and learning centre;
 - A sombre monument is incompatible next door to a children’s playground;
 - It would not be appropriate for people to use the grass mound above the learning centre as an area for informal play or recreation.

My view on objections

3.20 The objections raise concerns that the proposals would reduce the quantity of open space within Victoria Tower Gardens, in addition, to reducing the quality of the remaining open space that is not built upon. I agree with the concerns raised by objectors in this respect.

3.21 I believe that the significant number of objections received clearly demonstrate that Victoria Tower Gardens is a well-used and cherished park by residents, workers and visitors alike. They demonstrate that Victoria Tower Gardens is well used as a place for active recreation, leisure and relaxation, and this contributes greatly to the quality of life and health and wellbeing of those who live in, work in, and visit the area.

3.22 In terms of the quantity of open space that would no longer be freely accessible, I agree with the applicant and also calculate this area measures approximately 1,429 sqm or 7.5% of the total area (based on the total area of the garden measuring approximately 19,000

sqm). This area includes the entrance pavilion, memorial courtyard, and memorial fins, which would be enclosed by a secure perimeter. Viewed objectively, this is a material reduction in the amount of open space available for use by members of the public. The loss of that amount of open space itself results in a significant adverse impact because it reduces the area that is freely available for recreation and relaxation in what is already a well-used park in central London.

- 3.23 In addition to the physical works and resulting loss of useable open space, I share objectors concerns that the proposals would adversely affect the quality of the remaining open space/ gardens. The London Parks and Gardens Trust and Thorney Island Society note that areas of hard standing will increase dramatically at the expense of existing green space/ grass, with the total amount of recreational green space/ grass reduced by 26% or 27% respectively. The London Parks and Gardens Trust objection is supported by a plan showing the area calculations (CD 5.23). I do not dispute their findings.
- 3.24 I agree with objectors concerns that the Horseferry playground may become congested given its proximity to the entrance pavilion, which may in turn adversely affect its users. The entrance pavilion is sited close to the Horseferry children's playground and an increased volume of people may overspill into the playground, as well as use the new refreshments kiosk before or after visiting the memorial and learning centre.
- 3.25 The siting of the Holocaust Memorial and Learning Centre within the central lawn area would also segregate the Horseferry playground from the remaining flat lawn areas. This would make it difficult for users to easily interact between the remaining different areas of the park that lie outside of the memorial and learning centre. Regular visitors to the park who would typically use the gardens as a community, recreational and social space would have to negotiate the barrier of the physical development itself, as well as the development's associated increased visitor activity.
- 3.26 A sombre monument could also reasonably be considered, at least by some, to be incompatible adjacent to a children's playground. There is a potential discordance between the juxtaposition of a sombre monument and the noise and activity of children at play. Similarly, some users may understandably feel that it would not be appropriate to use the large grass mound above the learning centre as an area for informal play or recreation, since to do so risks being considered disrespectful.

- 3.27 My view is that the grass mound above the learning centre would be of lesser quality for informal play or recreation in comparison to the existing flat grass lawn. This is because of its sloping hill and also because it is integral to the structure of the Holocaust memorial and learning centre.
- 3.28 Following development, the perception of the gardens would change for many, whereby the gardens would become or feel like the setting of the Holocaust Memorial and Learning Centre rather than an area of open space for recreation and relaxation in its own right. Not only would some parts of the space no longer be available for informal recreation, but the associated increased pedestrian activity is likely to discourage those who live in, work in, and visit the area from using the Gardens for recreation and relaxation.
- 3.29 In paragraph 6.13 of the Planning Statement (CD 6.1), the applicant sets out measures that they say are improvements to open space, saying: “the proposals will result in almost completely new Gardens being provided back to the community with the following significant improvements to Victoria Tower Gardens provided by the Proposed Development that will deliver better quality open space and enhance the land as public open space”. In particular, the Applicant relies on:
- The grassed open space within the Site will be re-laid with improved drainage together with shrub and flower planting around the Gardens.
 - Landscaping over the Memorial and Learning Centre, creating a gentle slope with improved views of Parliament and the River Thames.
 - Pathways throughout the Gardens will be regraded and made more permeable.
 - Landscaping and seating will be added around Buxton Memorial.
 - Raised walkway and new seating along the River Thames embankment.
 - Horseferry Playground will be updated, providing sand and waterplay, climbing, swinging, sliding, balancing, sensory and role play. The existing refreshments kiosk will be replaced with a new modern kiosk which provides a covered seating area.

3.30 Overall, my view is that these “improvements” to open space cited by the applicant, to the extent that they can properly be regarded as improvements, do not outweigh the harm to Victoria Tower Gardens resulting from both the reduction in amount of available public open space and the harm to the function of Victoria Tower Gardens as an open space for active recreation and relaxation. Indeed, I am not convinced that all of the above items can be regarded as improvements, for example, I have already explained that the creation of the slope over the memorial is unlikely to improve the usability of Victoria Tower Gardens for outdoor recreation. In my view, the proposed development will change permanently and harmfully the open space available to the public at Victoria Tower Gardens, in terms both of the amount of space available, and the usability of the space that remains.

Relevant open space planning policy context

3.31 The importance of open and green spaces along with the role of local authorities in protecting, managing and enhancing them, is recognised in a range of national and local policy documents and frameworks. These include:

- Westminster City Plan (2016) (CD 2.3)
- Westminster Unitary Development Plan (2007)
- London Plan (2016)
- NPPF
- Emerging Westminster City Plan 2019 -2040 (Regulation 19 Publication Draft, June 2019)
- Intend to Publish London Plan 2019
- Westminster Supplementary Planning Guidance: Westminster open spaces and biodiversity strategy - ‘A Partnership Approach to Open Spaces and Biodiversity in Westminster’ (March 2019).

Westminster City Plan (2016) (CD 2.3)

3.32 Victoria Tower Gardens is designated as ‘Public Open Space’ within the City Plan (Figure 46). Paragraphs 5.50 – 5.55 relate to Westminster’s Open Space and Green Infrastructure. Westminster has a unique open space network which makes an important contribution to the heritage, townscape, economy and enjoyment of Westminster and London as a whole.

The plan recognises that there are both overall and localised shortages of open space in Westminster and a deficiency of public open space in the south of the city where Victoria Tower Gardens is located.

3.33 Policy S35 relates to 'Open Space' and states:

"The council will protect and enhance Westminster's open space network, and work to develop further connections between open spaces. The council will seek to address existing public open space deficiencies, including active play space deficiency, and current and future open space needs by:

- Protecting all open spaces, and their quality, heritage and ecological value, tranquillity and amenity;
- Mitigating additional pressure on open spaces by securing new improved public open space in new developments; space for children's active play; and seeking public access to private spaces; and
- Securing contributions to improving the quality, ecological value and accessibility of local public open spaces and delivering new open spaces from under-used land."

3.34 Policy S35's reasoned justification states "Land in Westminster is scarce, under intense competition, has a high monetary value and is built upon, with the exception of open space and public realm/highway. This means that new open space to alleviate current deficiencies and meet growing demands is very difficult to achieve, and therefore all open spaces must be protected.

The council has assessed Westminster's open space provision, need and deficiency, and set out a framework to address the deficiencies, including designating priority areas for additional open space and active play space, and for improving the quality and accessibility of open spaces and the open space network.

The overall and localised shortage of open space and the difficulty of finding appropriate new sites make it essential to resist the loss of even the smallest open spaces.

The quality and network of open spaces provides opportunities for increased activity in relation to organised sport, recreation, children's active play, and walking and cycling both for recreation and as a means of transport. There are clear links between low levels of physical activity and the increased risk of obesity, with its associated impact on health. It is therefore a matter of concern that the most deprived areas of the city are often deficient in open space provision. Within Westminster, ninety percent of residents live in flats, further

increasing the importance of open spaces as a particularly valuable resource to the social well-being and healthy lives of Westminster's residents."

- 3.35 The policy justification stresses that there is shortage of open space and it is essential to resist the loss of even the smallest open spaces. The policy justification also recognizes the link between health and wellbeing and the opportunities open spaces can provide for recreation. Victoria Tower Gardens is located within St. James's Ward and on the boundary with Vincent Square Ward. The Westminster City Ward Profiles 2018 indicate that within these wards a very significant numbers of children are obese (23-30%), and also that these wards are in the 30-40% most deprived in the UK for the average overall rank. This rises to 40-50% for some local areas within these wards near to Victoria Tower Gardens, making the benefits of the play and open space provision to the health and well-being of the local residents very important.
- 3.36 The proposal does not accord with policy S35 of the City Plan. The proposal would result in the loss of public open space and reduce the quality of the remaining open space. It would also, as explained in the evidence of Robert Ayton and Mark Machworth-Praed, result in harm to a range of heritage assets and have the potential to lead to the loss or damage to valuable trees in Victoria, harming the heritage and ecological value of the open space. The proposals associated increased visitor activity would also harm the tranquillity and amenity of the public open space. Overall, there is a substantial conflict with the requirements of this policy.

Westminster Unitary Development Plan (2007) (CD 2.2)

- 3.37 The UDP designates Victoria Tower Gardens as a 'Local Park and Open Space' (Table 9.1 within the UDP). UDP Policy ENV15 relates to 'Public and private open space' and aims to conserve, enhance and increase Westminster's green spaces and plantings for recreation, nature conservation and to maintain biodiversity. Policy ENV15 (A) states: "Planning permission will not be granted for development on, or under public or private open space of amenity, recreational or nature conservation value, unless the development is essential and ancillary to maintaining or enhancing that land as valuable open space."
- 3.38 The policy application states "Open spaces should be regarded as permanent and valuable features and it is very important that they should be protected. The City Council aims to

safeguard existing open spaces for active recreation and quiet relaxation, and to increase their number to provide better access from all parts of the City, giving priority to meeting the needs of the areas of greatest deficiency.”

- 3.39 The proposal does not accord with policy ENV15 of the UDP. The proposed development and associated increased visitor activity would result in the loss of public open space and would harm the quality and function of the Victoria Tower Gardens as an open space for active recreation and relaxation. Again, there is a substantial conflict with the requirements of this policy.

London Plan (2016) (CD 2.1)

- 3.40 The London Plan categorizes Victoria Tower Gardens as a ‘Local Park and Open Space’ (Table 7.2). London Plan Policy 7.18 relates to ‘Protecting Open Space and addressing deficiency’. Policy 7.18, part B states: “The loss of protected open spaces must be resisted unless equivalent or better quality provision is made within the local catchment area. Replacement of one type of open space with another is unacceptable unless an up to date needs assessment shows that this would be appropriate.” Part C states “When assessing local open space needs LDFs should: (a) include appropriate designations and policies for the protection of open space to address deficiencies”.
- 3.41 The London plan defines ‘Protected open space’ as land that is subject to local designation under policy 7.18. Victoria Tower Gardens is designated as ‘Public Open Space’ and protected under policy S35 of the Westminster City Plan (2016). Victoria Tower Gardens is also designated as a ‘Local Park and Open Space’ and protected under policy ENV15 of Westminster’s Unitary Development Plan (2007). At London level, the proposal does not accord with Policy 7.18. Victoria Tower Gardens is ‘protected open space’ and the proposals do not provide equivalent or better quality provision within the local catchment area. There is a substantial conflict with the requirements of this policy.
- 3.42 Taking the above policies together, there is a clear and substantial conflict between the proposed development and the adopted development plan policies relating to open space.

NPPF (CD 1.1)

- 3.43 Paragraph 97 of the NPPF states that existing open space, sports and recreational buildings and land including playing fields should not be built on unless:
- (a) An assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
 - (b) The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
 - (c) The development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

- 3.44 At national level, the development conflicts with the NPPF given that the open space will be built on and none of the exceptions in paragraph 97 apply to this proposal given that it does not provide equivalent or better provision in terms of quantity and quality in a suitable location. The proposal conflicts with this part of the Secretary of State's policy within the NPPF.

Emerging City Plan 2019 -2040 (Regulation 19 Publication Draft, June 2019) (CD 2.5)

- 3.45 Victoria Tower Gardens is designated as 'Public Open Space' within the Emerging City Plan (Figure 28). Policy 35C in the emerging plan relates to Open Space and states: "All open spaces and their quality, heritage and ecological value, tranquillity and amenity will be protected."
- 3.46 The proposal would not comply with policy 35C of the Emerging City Plan. The proposal would result in the loss of public open space and reduce the quality of the remaining open space. As noted above and explained in the evidence of Robert Ayton and Mark Machworth-Praed, it would also result in harm to a range of heritage assets and have the potential to lead to the loss or damage to valuable trees in Victoria, harming its heritage and ecological value. The proposals associated increased visitor activity would also harm the tranquillity and amenity of the public open space.

Intend to Publish London Plan 2019 (CD 2.4)

- 3.47 The Intend to Publish London Plan 2019 categorizes Victoria Tower Gardens as a 'Local Park and Open Space' (Table 8.1). Policy G4 relates to 'Open Space' and part B states: "Development proposals should not result in the loss of protected open space."
- 3.48 The proposal would not comply with Policy G4. Victoria Tower Gardens is defined as protected open space and the proposal would result in the loss of protected open space within the gardens.

Supplementary Planning Guidance (CD 4.1)

- 3.49 Westminster open spaces and biodiversity strategy - 'A Partnership Approach to Open Spaces and Biodiversity in Westminster' (March 2019) states:
"The council reflects the aims of the Mayor's London Plan in its own planning policy, with a clear strategic objective within Westminster's City Plan to: "protect and enhance Westminster's open spaces, civic spaces and Blue Ribbon Network, and Westminster's biodiversity; including protecting the unique character and openness of the Royal Parks and other open spaces; and to manage these spaces to ensure areas of relative tranquillity in a city with a daytime population increased every day to over one million workers and visitors."
- 3.50 The strategy recognizes the Importance of Open Space and Green Infrastructure: "The benefits of open space and green infrastructure to individuals and communities are broad ranging. Providing green spaces and places for nature improves the health and wellbeing of individuals, increases resilience to climate change, improves air quality and enhances biodiversity, while also delivering economic benefits and driving local growth and prosperity. It is also one of the most effective ways to address health inequalities in the community."
- 3.51 In the Evidence Base section of the strategy, it recognizes through its Community Engagement section that:
- Main reasons for visiting (open spaces) are to get fresh air, to get away from the hustle and bustle of the city and to spend time in a natural environment.
 - Quiet, informal recreation was by far the most popular purpose for which people use open space in Westminster. Walking was the most popular active pursuit.

- 3.52 Victoria Tower Gardens is designated as 'Public Open Space' within the guidance (Appendix 1). By reducing the quantity and quality of the open space within Victoria Tower Gardens, the proposals would be in conflict with this guidance which aims to protect, enhance and promote Westminster's parks, open spaces, and other green infrastructure.
- 3.53 Thus, in addition to the conflict with relevant development plan policies on open space, there are other material considerations which increase the weight that should be given to the harm the development would cause to open space.

Impact on open space - conclusions

- 3.54 Victoria Tower Garden's significance is as a valued open space for recreation and relaxation, as a place of refuge from the noise and frenetic activity of the nearby major tourist areas, for those who live in, work in, and visit the area.
- 3.55 The proposals would not only reduce the quantity of open space within Victoria Tower Gardens, but the development and its associated increased visitor numbers would also reduce the quality of the remaining space.
- 3.56 The proposals would harm the character and function of the Victoria Tower Gardens as an open space for active recreation and relaxation and would be of particular detriment to those who live in, work in, and visit the area. The scale of the project (and its projected 3.6 million visitors per year) is such that Victoria Tower Gardens would inevitably become the backdrop and setting to the Holocaust Memorial and Learning Centre. The perception of the gardens would change for many, whereby it would become or feel like the setting of the Holocaust Memorial and Learning Centre rather than an area of open space for recreation and relaxation in its own right. I consider the proposals will change forever and harmfully the function of a well-used and cherished public park.
- 3.57 Not only would some parts of the garden no longer be freely available for informal recreation, but the development and associated increased pedestrian activity will also reduce the quality of the remaining open space and discourage local residents, workers and visitors from using the gardens for recreation and relaxation. The central lawn area is presently used for informal play and recreation and it is considered that following the

creation of the sloping mound, that this area would be of lesser quality for informal play or recreation in comparison to the existing flat grass lawn. The siting of the memorial and learning centre within the central lawn would also segregate the Horseferry children's playground from the remaining garden, harming the interaction between the remaining areas of the gardens that lie outside of the holocaust memorial and learning centre. The increased amounts of hard landscaping would also further reduce the amount of green open space.

- 3.58 In effect the Holocaust Memorial and Learning Centre and its associated visitor activity will dominate the space and the perception of it for users. This would be to the detriment of those who live in, work in, and visit the area.
- 3.59 The proposals are contrary to adopted development plan policy in this regard, and to other relevant local, regional and national policy documents which seek to protect and enhance open space.
- 3.60 At a local level the proposals would not accord with policies S35 of Westminster's City Plan (November 2016) and ENV15 of Westminster's Unitary Development Plan (2007). In addition, it would also not meet the advice set out in Westminster's open spaces and biodiversity strategy - 'A Partnership Approach to Open Spaces and Biodiversity in Westminster' (March 2019).
- 3.61 At a regional level the proposals do not accord with policy 7.18 of the London Plan (2016) and G4 of the Intend to Publish London Plan 2019.
- 3.62 At a national level the proposals do not accord with Paragraph 97 of the NPPF.
- 3.63 Overall, therefore, I attach substantial weight to the harm the development would cause to land designated as open space. The development would conflict with development plan policy on this issue, and as well as the NPPF and other policies which are material considerations.

4. Impact on Trees

- 4.1 The proof of evidence by Mark Mackworth-Praed relates to the arboricultural issues that arise in this call-in Public Inquiry. It concludes that it has not been adequately or satisfactorily demonstrated that the UK Holocaust Memorial and Learning Centre can be constructed in its proposed siting within Victoria Tower Gardens without there being a clear risk that the London Plane trees lining the boundaries of the park will suffer significant harm, which could be of a sufficient extent or degree to result in their loss, as a result of decline and dieback induced either by the effects of the proposal, or by the process of its construction. I rely on his evidence and conclusions.

Trees planning policy context

Westminster's City Plan (November 2016) (CD 2.3)

- 4.2 Policy S25 relates to Heritage:
“Recognising Westminster’s wider historic environment, its extensive heritage assets will be conserved, including its listed buildings, conservation areas, Westminster’s World Heritage Site, its historic parks including five Royal Parks, squares, gardens and other open spaces, their settings, and its archaeological heritage. Historic and other important buildings should be upgraded sensitively, to improve their environmental performance and make them easily accessible.”
- 4.3 Policy S38 relates to Biodiversity and Green Infrastructure:
“Biodiversity and green infrastructure will be protected and enhanced throughout Westminster and opportunities to extend and create new wildlife habitat as part of development will be maximised. Proposals within Areas of Wildlife Deficiency should include features to enhance biodiversity, particularly for priority species and habitat. Where developments would impact on species or habitat, especially where identified in the relevant Biodiversity Action Plan at national, regional or local level, the potential harm should firstly be avoided, secondly be mitigated, or finally appropriate compensation will be sought. Where harm cannot be prevented, sufficiently mitigated against or adequately compensated for, permission will be refused.”

Unitary Development Plan January 2007 (CD 2.2)

4.4 Policy ENV 16 relates to Trees and Shrubs:

“(A) All trees in conservation areas and all those trees subject to Tree Preservation Orders will be safeguarded unless dangerous to public safety or, in rare circumstances, when felling is required as part of a replanting programme.

(B) Planning permission will be refused for development likely to result in the loss of or damage to a tree which makes a significant contribution to the ecology, character or appearance of the area.”

Policy DES 9 relates to protecting the character and appearance of conservation areas .

London Plan (2016) (CD 2.1)

4.5 Policy 7.21 relates to Trees and Woodlands:

“Existing trees of value should be retained and any loss as the result of development should be replaced following the principle of ‘right place, right tree’¹⁴¹. Wherever appropriate, the planting of additional trees should be included in new developments, particularly large-canopied species.”

Intend to Publish London Plan 2019 (CD 2.4)

4.6 Policy G7 relates to Trees and Woodlands:

“Development proposals should ensure that, wherever possible, existing trees of value are retained.¹⁴⁴ If planning permission is granted that necessitates the removal of trees there should be adequate replacement based on the existing value of the benefits of the trees removed, determined by, for example, i-tree or CAVAT or another appropriate valuation system. The planting of additional trees should generally be included in new developments – particularly large-canopied species which provide a wider range of benefits because of the larger surface area of their canopy.”

4.7 In accordance with the evidence of Mark Mackworth-Praed, it has not been demonstrated that the Holocaust Memorial and Learning Centre can be built without risk to the future well-being of the trees. Damage to or loss of trees would be contrary to policies S25 and S38 of Westminster's City Plan (November 2016), ENV 16 and DES 9 of our Unitary Development

Plan that we adopted in January 2007, 7.21 of the London Plan (2016) and G7 of the Intend to Publish London Plan 2019. Moreover, damage and/or loss to trees would be detrimental to the visual amenities of the area, and would have a further adverse effect on the significance of heritage assets.

- 4.8 Overall, the proposed development would not accord with relevant development plan policy regarding trees. The development risks causing significant harm to or loss of trees. This is a matter to which I attribute substantial weight.

5. Impact on Heritage

5.1 The impact of the proposal on heritage assets is addressed in detail in the proof of evidence by Robert Ayton.

5.2 The level of harm caused by the proposals depends on the impact on the trees. If the trees are unaffected, the proposal may be considered to cause less than substantial harm. The harm would be towards the very high end of the scale of “less than substantial”, that is, almost equating to substantial harm, but not quite. The heritage assets affected would be:

- The Victoria Tower Gardens
- The listed memorials in Victoria Tower Gardens, especially the Buxton Memorial
- The Westminster Abbey and Parliament Square Conservation Area
- The World Heritage Site
- The Palace of Westminster

5.3 However, there is serious doubt about the long term future of some of the mature trees in the Victoria Tower Gardens if the proposal was to proceed. If the trees were to be harmed significantly so as to reduce their visual value, or to die and be removed, then the overall heritage impact on the significance of:

- The Victoria Tower Gardens,
- The Buxton Memorial,
- The Westminster Abbey and Parliament Square Conservation Area,
- The World Heritage Site,
- The Palace of Westminster, and

would be tipped into the level of substantial harm.

5.4 If the trees were to be harmed significantly the additional (but less than substantial) harm would be caused to the setting and significance of:

- The Smith Square Conservation Area,
- The adjacent listed buildings – Norwest House and Nos. 1 and 2 Millbank, and
- The river embankment wall.

- 5.5 On either view, the effect of causing harm to designated heritage assets, including assets of the highest significance, is that the harm to those assets must be given considerable importance and weight in the planning balance and that there is a strong presumption against the grant of planning permission.
- 5.6 Indeed, on the basis that the proposals risk causing substantial harm to designated heritage assets, paragraph 195 of the NPPF applies. Under that policy, planning permission should be refused unless it can be demonstrated that the substantial harm or total loss of a designated heritage asset is necessary to achieve substantial public benefits that outweigh that harm or loss.
- 5.7 In either event, the NPPF test requires a consideration of the balance of harm and benefits resulting from the proposal. This exercise is dealt with in the final section of my proof under the heading 'Planning Balance'.

Heritage planning policy context

Westminster's City Plan (November 2016) (CD 2.3)

- 5.8 Policy S25 requires conservation of heritage assets, including listed buildings, conservation areas, Westminster's World Heritage Site, historic parks, squares, gardens and other open spaces, their settings, and its archaeological heritage. Policy S26 relates to protection of views, including local and metropolitan views of significance. Policy S35 states that the council will protect and enhance Westminster's open space network, and protecting all open spaces, and their quality, heritage and ecological value, tranquillity and amenity.

Unitary Development Plan (2007) (CD 2.2)

- 5.9 Policies DES 9 and DES 10 relate to protecting the character and appearance of conservation areas and the special interest of listed buildings and their settings.

Policy DES 12 relates to preserving and enhancing parks, gardens and squares.

Permission will not be given for development on or under those parks, landscaped spaces and public or private gardens, where the open spaces:

- 1) form an important element in the townscape, part of a planned estate or street layout
- 2) are characteristic features of conservation areas
- 3) provide the setting of a listed building
- 4) are of significant ecological value.

DES 15 deals with protection of views and DES 16 deals with the protection of the World Heritage Site. The latter states:

Permission will only be granted for developments that protect and conserve the character, appearance, setting and ecological value of the World Heritage Site

The London Plan (2016) (CD 2.1)

5.10 Policy 7.8 Heritage assets and archaeology states:

Strategic

A London's heritage assets and historic environment, including listed buildings, registered historic parks and gardens and other natural and historic landscapes, conservation areas, World Heritage Sites, registered battlefields, scheduled monuments, archaeological remains and memorials should be identified, so that the desirability of sustaining and enhancing their significance and of utilising their positive role in place shaping can be taken into account.

B Development should incorporate measures that identify, record, interpret, protect and, where appropriate, present the site's archaeology.

Planning decisions

C Development should identify, value, conserve, restore, re-use and incorporate heritage assets, where appropriate.

D Development affecting heritage assets and their settings should conserve their significance, by being sympathetic to their form, scale, materials and architectural detail.

E New development should make provision for the protection of archaeological resources, landscapes and significant memorials. The physical assets should, where possible, be made available to the public on-site. Where the archaeological asset or memorial cannot be preserved or managed on-site, provision must be made for the investigation, understanding, recording, dissemination and archiving of that asset.

Policy 7.10 is also relevant and states:

Development should not cause adverse impacts on World Heritage Sites or their settings (including any buffer zone). In particular, it should not compromise a viewer's ability to appreciate its Outstanding Universal Value, integrity, authenticity or significance. In considering planning applications, appropriate weight should be given to implementing the provisions of the World Heritage Site Management Plans.

NPPF (CD 1.1)

- 5.11 Sections 16, paragraphs 184 to 202 relates to 'Conserving and enhancing the historic environment.

Paragraph 189 of the NPPF states:

Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations (Para 189)

Paragraph 192 states:

In determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and

c) the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 193 deals with the consideration of potential impacts and states:

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraphs 194 to 196 state:

Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:

- a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;
- b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

As the NPPF defines a World Heritage Site as a designated heritage asset, great weight should be given to its conservation and substantial harm to a World Heritage Site's significance (the heritage aspects of its Outstanding Universal Value) or total loss of the site should be wholly exceptional.

Paragraph 200 states:

Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

The Intend to Publish London Plan (2019) (CD 2.4)

5.12 The current policies most relevant to the proposal are HC1 and HC2. Policy HC1(C) states:

Development proposals affecting heritage assets, and their settings, should conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings. The cumulative impacts of incremental change from development on heritage assets and their settings, should also be actively managed. Development proposals should seek to avoid harm and identify enhancement opportunities by integrating heritage considerations early on in the design process.

Policy HC2 deals with World Heritage Site and states:

A. Boroughs with World Heritage Sites and those that are neighbours to authorities with World Heritage Sites should include policies in their Development Plans that conserve, promote, actively protect and interpret the Outstanding Universal Value of

World Heritage Sites, which includes the authenticity and integrity of their attributes and their management.

B. Development proposals in World Heritage Sites and their settings, including any buffer zones, should conserve, promote and enhance their Outstanding Universal Value, including the authenticity, integrity and significance of their attributes, and support their management and protection. In particular, they should not compromise the ability to appreciate their Outstanding Universal Value, or the authenticity and integrity of their attributes.

C. Development Proposals with the potential to affect World Heritage Sites or their settings should be supported by Heritage Impact Assessments. Where development proposals may contribute to a cumulative impact on a World Heritage Site or its setting, this should be clearly illustrated and assessed in the Heritage Impact Assessment.

D. Up-to-date World Heritage Site Management Plans should be used to inform the plan-making process, and when considering planning applications, appropriate weight should be given to implementing the provisions of the World Heritage Site Management Plan.

Emerging City Plan 2019 -2040 (Regulation 19 Publication Draft, June 2019) (CD 2.5)

5.13 The emerging City Plan includes the following relevant policies.

39. Design principles

A. New development will incorporate exemplary standards of high quality, sustainable and inclusive urban design and architecture befitting Westminster's world-class status, environment and heritage and its diverse range of locally distinctive neighbourhoods.

40. Westminster's heritage

A. Westminster's unique historic environment will be valued and celebrated for its contribution to the quality of life and character of the city. Public enjoyment of, access to and awareness of the city's heritage will be promoted.

B. Development must optimise the positive role of the historic environment in Westminster's townscape, economy and character and will:

1. ensure heritage assets and their settings are conserved and enhanced, as appropriate to their significance;
2. secure the conservation and continued beneficial use of heritage assets through their retention and sensitive adaptation which will avoid harm to their significance, while allowing them to meet changing needs;
3. place heritage at the heart of place making and good growth, maintaining the unique character of our heritage assets and delivering high quality new buildings and spaces which enhance their settings.

WESTMINSTER WORLD HERITAGE SITE

C. The Outstanding Universal Value (OUV), authenticity and integrity of the Westminster World Heritage Site will be conserved and enhanced. The setting of the site will be protected and managed to support and enhance its OUV.

D. Development will protect the silhouettes of the Palace of Westminster and Westminster Abbey and will protect and enhance significant views out of, across and towards the World Heritage Site.

E. The council will work with partners to promote the use, management and interpretation of the site in ways that protect, enhance and better communicate its OUV.

F. Applicants will be required to demonstrate that any impacts of their proposals on the World Heritage Site or its setting have been fully assessed using Heritage Impact Assessment methodology.

- 5.14 In accordance with the evidence of Robert Ayton, because of its location, size and design, the proposed Holocaust Memorial and Learning Centre would cause harm to the significance of Victoria Tower Gardens, the Westminster Abbey and Parliament Square Conservation Area, the setting and significance of Buxton Memorial (and other memorials in the Gardens) and the neighbouring grade 1 listed Palace of Westminster, and the setting, significance and outstanding universal value of the Palace of Westminster and Westminster Abbey including Saint Margaret's Church World Heritage Site. This harm, which is assessed to be less than substantial, is considered not to be outweighed by the public benefits of the proposed development.

This would not meet policies S25 and S26 of Westminster's City Plan (November 2016) and DES 1, DES 9, DES 10, DES12 and DES 16 of our Unitary Development Plan that we adopted in January 2007. The proposal is also contrary to policy 7.8 and 7.10 of the London Plan (2016) and policies HC1 and HC2 of the Intend to Publish London Plan 2019. This is contrary to section 16 of the NPPF.

Or, if the trees are lost or damaged:

- 5.15 Because of its location, size and design, the proposed Holocaust Memorial and Learning Centre would cause substantial harm to the significance of Victoria Tower Gardens, the Westminster Abbey and Parliament Square Conservation Area, the setting and significance of Buxton Memorial (and other memorials in the Gardens) and the neighbouring grade 1 listed Palace of Westminster, and the setting, significance and outstanding universal value of the Palace of Westminster and Westminster Abbey including Saint Margaret's Church World Heritage Site. It would also harm the settings and significance of the Smith Square Conservation Area, the adjacent listed buildings, Norwest House, Nos. 1 and 2 Millbank and the river embankment wall. This substantial harm is not outweighed by public benefits.

This would not meet policies S25 and S26 of Westminster's City Plan (November 2016) and DES 1, DES 9, DES 10, DES 12 and DES 16 of our Unitary Development Plan that we adopted in January 2007. The proposal is also contrary to policy 7.8 and 7.10 of the London Plan (2016) and policies HC1 and HC2 of the Intend to Publish London Plan 2019. This is contrary to section 16 of the NPPF.

- 5.16 Overall, the proposed development would not accord with relevant development plan policy regarding heritage. The development would harm the significance of heritage assets. The level of harm depends on the impact of the proposals on the trees which play a very important role in the significance of many of these heritage assets. On either view, the harm would be to designated heritage assets of the highest level of significance. This is a matter to which I attribute substantial weight.

6. Other Considerations

Free Public Access

- 6.1 The council understood that it was the intention that free public access would be provided to enter the Holocaust Memorial and Learning Centre for the lifetime of the development. This was stressed at pre-application stage when discussing ticketing strategies. The application documentation also states that the site would be 'Free to enter' (Section 5.9 of The Visitor Management Strategy, December 2018)' (CD 5.8). The applicant has since resiled from this concession during recent s106 negotiations. The loss of this benefit would likely deter a significant portion of the population from wanting to visit the UK Holocaust Memorial and Learning Centre. As such this is a matter to which I attribute significant weight.

Transport

- 6.2 The proposal will generate increased pedestrian activity and while the impact on buses, cyclists and motor vehicles is not ideal, it is accepted that the increased pedestrian activity itself would not be a road safety concern or be significantly detrimental to the operation of the highway. In terms of activity on the highway arising from coaches and servicing, it is expected that this could be controlled by condition to secure details of a Servicing Operational Management Plan. The provision of sufficient cycle parking could also be dealt with by condition.

Refuse/ Recycling

- 6.3 The waste and recycling stores are shown to be within the basement and ground floors of the Learning Centre as well as a store within the Refreshments Kiosk. The level of provision is sufficient and could be secured by condition.

Flood Risk

- 6.4 It is considered that the proposed development is in accordance with national, regional and local planning policy in relation to flood risk, subject to bespoke conditions recommended by the Environment Agency (CD 5.16). A pre-commencement condition would also require

that no development takes place without a sufficient flood risk strategy in place to demonstrate that the proposal has a safe means of access and egress in the event of flooding from all new buildings to an area wholly outside the floodplain.

Security

- 6.5 Concerns have been raised relating to security issues with growing antisemitism, hate crime and holocaust denial. The proposal is supported by a security report which has been informed by relevant specialists and the Metropolitan Police have not raised any objection. A Security Management Plan is recommended to be secured via s106 and this must include input from the continued advice and engagement of the Metropolitan Police Service Counter-Terrorism Security Advisor, the Centre for the Protection of National Infrastructure and the Community Service Trust.

Archaeology

- 6.6 It is considered that the proposed development is in accordance with national, regional and local planning policy in relation to archaeology, subject to conditions recommended by Historic England.

7.0 **Applicant's case**

7.1 The applicant's Planning Statement (CD 6.1) 'Executive Summary' and 'Conclusions' sets out that the proposed development accords with all national, regional and local planning policy delivering significant planning and public benefits including:

- The delivery of the UK Holocaust Memorial and Learning Centre comprising of a striking architectural monument that aims to encourage reflection, remembrance and education, and reaffirm Britain's commitment against antisemitism, prejudice and hatred in all forms;
- A high quality memorial that would be a positive addition to Victoria Tower Gardens, responding sensitively to its location and context, and preserving the outstanding universal value of the World Heritage site;
- New planting and landscaping that will enhance the visual and amenity value of Victoria Tower Gardens as a place of calm and reflection for its visitors;
- The relaying of grassed areas with significantly improved drainage and shrubs and planting;
- Pathways to be regraded and made more permeable, which would improve soil conditions and accessibility;
- New landscaping and seating around Buxton Memorial to improve its setting;
- A raised walkway and seating along the Thames embankment wall that will improve views of the river; and
- New and improved playground equipment in the Horseferry playground and a replacement refreshments kiosk.

7.2 If a different view is formed, the applicant considers that the national and international significance of the UK Holocaust Memorial and Learning Centre would constitute material considerations which outweigh any alleged harm, and would be overwhelmingly in favour of the grant of planning permission.

7.3 With regards to the benefits set out by the applicant above, I fully support the applicant's aims to advance Holocaust remembrance and education and the principle of a national memorial and a learning centre to the Holocaust as this horrific crime must never be forgotten.

- 7.4 I also have no objection to the proposals to upgrade the children's play equipment in the Horseferry playground or to provide a replacement refreshments kiosk.
- 7.5 However, the proposal, whilst of national and international significance, is, because of its location, size, design and associated activity, an inappropriate form of development within this Grade II registered park and garden. The proposal, whilst of national and international significance, is, because of its location, size, design and associated activity, an inappropriate form of development within this Grade II registered park and garden.
- 7.6 I do not agree with the applicant's assertion that the proposals respond sensitively to its location and context and would be a positive addition to Victoria Tower Gardens.
- 7.7 The proposal would result in harm to the significance of:
- the registered Victoria Tower Gardens and its associated listed memorials, especially the Buxton Memorial;
 - the Westminster Abbey and Parliament Square Conservation Area and Smith Square Conservation Area;
 - the World Heritage Site (its Outstanding Universal Value and setting);
 - the grade I listed Palace of Westminster
 - the listed buildings on Millbank, Norwest House and Nos. 1 and 2 Millbank; and
 - the river embankment wall.
- 7.8 It would have the potential to lead to the loss or damage to valuable trees in Victoria Tower Gardens and it would lead to the loss of public open space and recreational land which would harm the character and function of the Victoria Tower Gardens.
- 7.9 I do not consider the new landscaping to be a benefit as this would harm the character of the gardens, which design is a simple, uncluttered, level space as well as the setting of existing listing memorials, particularly the Buxton Memorial.
- 7.10 I also do not consider that the proposed landscaping, when considered as a whole, would improve the quality of the public open space. The landscaping would introduce a significant amount of hard paving in place of existing grass areas, whilst the creation of a sloping mound above the learning centre would occupy a significant portion of the park's central

core. This will not only reduce the amount of available public open space but will also harm the quality of the remaining public open space. The central lawn area is presently used for informal play and recreation. I consider that the slopping mound and additional hard landscaping, would be of lesser quality for informal play or recreation in comparison to the existing flat grass lawn. The siting of the Holocaust Memorial and Learning Centre in the central lawn would also segregate the children's playground from the remainder of the undeveloped park.

- 7.11 The development's associated activity would also harm the function of Victoria Tower Gardens as a public open space for active recreation and relaxation. The perception of the gardens would change for many, whereby the gardens would become or feel like the setting of the Holocaust Memorial and Learning Centre rather than an area of open space for recreation and relaxation in its own right.
- 7.12 With regard to the raised walkway and seating along the Thames embankment, limited detail has been submitted in respect of this element. Page 112 of the Design and Access Statement contains visuals that suggest the new seating is set further back and at a similar or lower height than the existing raised benches that face the Thames. The difference in views of the river is likely to be negligible for those sitting or standing in comparison to the existing situation. The limited detail also does not allow for an assessment of its impact on the listed embankment wall.
- 7.13 Overall, I attach weight to the national and international significance of a UK Holocaust Memorial and Learning Centre but do not agree with the applicant that this would constitute material considerations which outweigh any alleged harm, and would be overwhelmingly in favour of the grant of planning permission.

8 Alternatives

- 8.1 It is well established that, when determining an application for development which, although desirable in itself, involves on the site proposed conspicuous adverse effects, the possibility of alternatives lacking such drawbacks becomes a relevant material consideration.
- 8.2 I consider that a fitting memorial to the horrors of the Holocaust can in principle be delivered in Victoria Tower Gardens with a more modest design that causes less harm than the current proposal. The current proposal is however not acceptable in this location.
- 8.3 A smaller, simpler and more modestly designed memorial that is not co-located with a learning centre, could in principle be achieved in Victoria Tower Gardens. The Buxton Memorial, which commemorates the abolition of slavery and the work of the MP Thomas Fowell Buxton is an example of a modest but elegant and symbolic memorial to commemorate a dark chapter in British History. The Cenotaph on Whitehall, the UK's official national war memorial, is another example for an elegant but modest memorial to the sacrifices made by millions in wars. I highlight these examples since they demonstrate that a large scale structure is not necessary to deliver a fitting memorial to commemorate a terrible and tragic event. A memorial to the Holocaust which is fitting but of a more modest scale ought in principle to be capable to being devised and introduced acceptably in Victoria Tower Gardens, if that proximity to Parliament was considered to be paramount, without causing the harm which the present proposals do.
- 8.4 With regard to co-location of the Holocaust Memorial and a learning centre, I do not consider that such co-location is necessary, particularly where significant harm would be caused to Victoria Tower Gardens. Indeed, the Imperial War Museum in Lambeth, which functions in effect as a learning centre in respect of the Two World Wars and other conflict is not co-located with The Cenotaph on Whitehall. I do not understand that any functional difficulties arise from this separation of the national War Memorial and the associated museum and learning centre. Thus, a fitting Holocaust memorial could be designed for Victoria Tower Gardens, if that location was considered critical, with the related learning centre located elsewhere.
- 8.5 However, if the Holocaust Memorial and Learning Centre has to be co-located and has to be of the scale proposed then alternative locations should be found for it. One of these may

be at the Imperial War Museum and it is noted that the Prime Minister's Holocaust Commission considered the Imperial War Museum was a suitable site.

- 8.6 The application documentation sets out that the location has been subject to a detailed site selection process. The Prime Minister's Holocaust Commission Report of January 2015 (CD 5.9) considered possible locations for a Holocaust Memorial and Learning Centre. The report made a number of recommendations and stated:

"The evidence is clear that there should be a striking new memorial to 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

The Commission proposes that the National Memorial should be co-located with a world-class Learning Centre. This would be a must-see destination using the latest technology to engage and inspire vast numbers of visitors and the Commission has been working to develop initial concepts with pro bono support from Oscar-winning British company Framestore. A critical part of the vision for the Learning Centre is that it would also be responsible for developing a physical campus and an online hub.

The Learning Centre should include a lecture theatre, classrooms and the opportunity for those who want it to locate their offices, or set up satellite offices, within the wider physical campus. The Commission also recommends that the Learning Centre should include the Imperial War Museum's Holocaust Exhibition, upgraded and expanded. This would, of course, require the consent of the IWM Board of Trustees at the appropriate time".

- 8.7 The Commission identified "three possible locations that should be considered as part of a consultation. Each has distinct advantages and challenges and they are not the only possible sites, but they are offered here as tangible possibilities that can capture the essence of the vision set out in this report".

- 8.8 The Victoria Tower Gardens was not one of the sites considered. Two of the sites were Potters Field and the Millbank Tower complex. These are no longer available. However, the third, The Imperial War Museum London, appears to remain a viable site. The Commission report states:

“The IWM has proposed the building of a new wing to house a memorial and a learning centre which would link to newly expanded and upgraded Holocaust galleries in the main building. This would benefit from being able to use the existing visitor facilities and essential infrastructure of the IWM building. The IWM also benefits from existing high visitor numbers – almost 1.5 million last year – of which 960,000 visited the Holocaust galleries. The Commission believes this is a viable option, provided a way can be found to meet the Commission’s vision for a prominent and striking memorial”.

8.9 In January 2016 following discussions involving the Government Property Unit, Victoria Tower Gardens emerged as a possible site and the Imperial War Museum site was not pursued. The UK Holocaust Memorial Foundation co-chairs Ed Balls and Lord Pickles stated:

“What better way to show that we will not tolerate hatred than our new Holocaust Memorial, right next to our Parliament. There is no location more fitting to honour the victims of one of humanity’s greatest tragedies than side-by-side with one of humanity’s oldest democracies. There is no better gift we can pass to future generations than the knowledge of where hatred, unchecked, can lead.

By building a Memorial and Learning Centre next to our Parliament we are fulfilling a commitment made to a past generation and committing future generations to hold our democracy to account.

It reminds Parliament that it has the power to oppress as well as the power to protect. The learning centre is a timely reminder, to all communities in the UK, of the cost of indifference to intolerance and bigotry. All who care about our country have a vested interest in standing up to prejudice and hatred wherever and whenever it occurs.”

8.10 The decision to select Victoria Tower Gardens as the location for the United Kingdom Holocaust Memorial and Learning Centre was announced by the Prime Minister, David Cameron, at Prime Minister’s Questions on 27 January 2016. The Prime Minister said:

“Last year, on the 70th anniversary of the liberation of Auschwitz, I said we would build a striking national memorial in London to show the importance Britain places on

preserving the memory of the Holocaust. Today, I can tell the House that this memorial will be built in Victoria Tower Gardens. It will stand beside Parliament as a permanent statement of our values as a nation, and it will be something for our children to visit for generations to come. I am grateful to all those who have made this possible, and who have given this work the cross-party status that it so profoundly deserves.”

- 8.11 It would appear that the Imperial War Museum remains an option. It is noted that to mark the 80th anniversary of the outbreak of the Second World War, the IWM is transforming its permanent Holocaust Galleries with a £30.5 million project that will see the IWM become the first museum in the world to physically and intellectually present the Holocaust narrative within the context of the Second World War. The revamped Holocaust Galleries are scheduled to open in 2021 and are free to the public.

9. Planning Balance

- 9.1 In my evidence I have demonstrated that the proposed Holocaust Memorial and Learning Centre. would lead to the loss of public open space and recreational land which would harm the character and function of the Victoria Tower Gardens. This attracts substantial weight.
- 9.2 In accordance with the evidence of Robert Ayton, the proposed Holocaust Memorial and Learning Centre would harm the significance of heritage assets. The current proposal would cause harm to the character and appearance of the Victoria Tower Gardens and would harm the significance of the Gardens and other heritage assets including the World Heritage Site. Whether the level of harm is, in terms of the NPPG, substantial or less than substantial, is a matter of judgement. Officers consider that if it is 'less than substantial', then it is at the very high end of that, bordering on 'substantial'. If the trees, which play a very important role in the significance of many of these heritage assets, are lost as a result of the development, then it is considered that the harm would be substantial. On either view, the harm would be to designated heritage assets of the highest level of significance and, statutorily, this must be afforded considerable importance and attract substantial weight which is adverse to the grant of planning permission.
- 9.3 In accordance with the evidence of Mark Mackworth-Praed, it has not been demonstrated that the Holocaust Memorial and Learning Centre can be built without risk to the future well-being of the trees. That is a matter which in itself attracts substantial weight. Moreover, as I have stated, an impact of the development on trees would tip the level of harm to certain designated heritage assets into the category of 'substantial harm', to which the test under NPPF is tipped into 'substantial' and the relevant test under NPPF para. 195 must be applied.
- 9.4 I have also explained that the development conflicts with relevant development plan policies relating to open space, heritage, and trees. In my view, the extent of the conflict with these policies is such that the development does not accord with the development plan read as a whole, and that the starting point is that (subject to other material considerations) planning permission should be refused.
- 9.5 The applicant considers that the national and international significance of the United Kingdom Holocaust Memorial and Learning Centre constitute material considerations which

would more than outweigh any alleged harm relating to heritage, trees, and open space and any other harm. Their position is that this benefit alone weighs overwhelmingly in favour of the grant of planning permission.

- 9.6 Overall, I attach significant weight to the national and international significance of a Holocaust Memorial and Learning Centre but do not agree with the applicant that this would constitute material considerations which outweigh any alleged harm, and would be overwhelmingly in favour of the grant of planning permission.
- 9.7 The applicant also relies upon the other benefits discussed in section 7 above. I attach weight to the applicant's aims to advance Holocaust education and remembrance but no weight to any of the other benefits, given they will cause harm to heritage assets, trees, and open space.
- 9.8 The creation of a national Holocaust Memorial and Learning Centre is clearly a public benefit. Moreover, given that the Holocaust was an international tragedy, it is fair to state that a Holocaust memorial in a world city such as London would be of international significance and importance.
- 9.9 However, the central question is whether or not the proposed location is suitable for the current proposal. As explained in section 8 above, there are alternatives to the development proposed that would deliver the same, or a very similar public benefit.
- 9.10 Whilst proximity to Parliament may be considered as a positive, given the harm which will be caused to the Victoria Tower Gardens and other heritage assets by the current proposals (which must be given substantial weight) as well as harm to and loss of usable open space and potential harm to trees it is considered that the public benefit of the Holocaust Memorial and Learning Centre as proposed does not outweigh the harm caused. Moreover, if a location close to Parliament is considered of significant weight, I consider that this could be addressed by a more modest form of memorial in Victoria Tower Gardens.
- 9.11 Overall, I am of the view that the benefits identified by the Applicant do not, therefore, outweigh the harm to designated heritage assets, trees and open space that the proposed development would cause.

9.12 The development as proposed does not accord with the development plan, when considered as a whole, and material considerations do not justify a conclusion that planning permission should be granted.