**Rebuttal of Proof of Evidence**

**Donncha O Shea BArch MSc ARB**

**on behalf of Gustafson Porter + Bowman LLP**

**Town and Country Planning Act 1990, Section 77; Town and Country Planning (Inquiries Procedure) (England) Rules 2000**

**Call-in Inquiry into the Proposed Development of the United Kingdom Holocaust Memorial and Learning Centre located within Victoria Tower Gardens, Millbank, London, SW1P 3YB**

Local Planning Authority Reference: 19/00114/FULL

Planning Inspectorate Ref: APP/X5990/V/19/3240661

September 2020

1. **Introduction**
	1. I have prepared this Rebuttal Proof on behalf of the Applicant and in relation to a number of Proof of Evidences prepared by representatives on behalf of objectors to the project.
* Mr. David Dorward’s Proof of Evidence prepared on behalf of Westminster City Council.
* Mr. Hal Moggridge for The London Gardens Trust in co-operation with The Gardens Trust.
* Mr Rowan Moore’s Proof of Evidence prepared on behalf of Save Victoria Tower Gardens.
* Sally Prothero’s, Proof of Evidence prepared on behalf of London Gardens Trust,
* Mark Mackworth-Praed prepared on behalf of Westminster City Council
	1. Please note that I have not sought to rebut all areas of disagreement between us, and my lack of mention of other matters raised should not be construed as my implicit agreement to them
1. **Rebuttal to Proof of Evidence of David Dorward**
	1. Mr. Dorward’s Proof of Evidence, on behalf of Westminster City Council, primarily focuses on the reason for refusal (iii), concerning impact on open space. He considers this with respect to the measured loss of open space, and the impact on the function of Victoria Tower Gardens as an open space for active recreation and relaxation.
	2. In his review of the ‘Site Characteristics and function as a public open space’, Mr. Dorward sets out the existing function of Victoria Tower Gardens, and how it is valued both environmentally and to the local community. This assessment identifies key physical features including the valued perimeter paths, the central open lawn area and edge planting that supports biodiversity in the park. The landscape proposals, described in the planning application (XX), retain each of these key features but do modify them for the improved enjoyment of the park users, while integrating the UK Holocaust Memorial and Learning Centre into the park landscape.
	3. Mr. Dorward’s proof also recognises that Victoria Tower Gardens currently allows a diverse range of daily activities, both passive and active, to be undertaken by the broad visitor profile. The proposed landscape masterplan would continue to support these activities in its layout and design, and there is no impediment to them.
	4. Alongside local residents and office workers, Mr. Dorward notes that a ‘significant proportion of visitors are tourists.’ This diversity of visitor, primarily due to the proximity of the park to major tourist attractions, establishes the broad user remit of Victoria Tower Gardens, and one which we believe is better provided for in the proposed landscape design with an improved layout and inclusive design features so that all users can enjoy the park equally.
	5. As assessed and summarised in 2.3, each point that David Dorward reiterates from The London Parks and Gardens Trust stands true in the future landscape proposals for Victoria Tower Gardens
		* It would remain 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
		* It would have an improved range of amenity functions, and better spaces for all users to enjoy.
		* The level of planting cover would be greatly increased both for the wellbeing and enjoyment of visitors and to create a more biodiverse environment.
		* All existing mature trees are retained as part of the scheme, and supplemented with additional trees to further mitigate noise and air pollution.
	6. Mr. Dorward’s assessment repeats the broad range of activities that the park supports and in so doing recognises that diversity of use can sit comfortably beside each other in dense urban environments. It is the nature of cities’ green spaces that they both provide respite for relaxing and the contemplation of memorials and artworks, alongside the enjoyment of sport and picnicking. We agree with this assessment, and believe the proposals for the UK Holocaust Memorial and Learning Centre represent this synergy allowing its form to be enjoyed and contemplated in equal measure.
	7. The statement is made in 3.10/3.25 that ‘The proposed location of the Memorial and Learning Centre would separate the Horseferry Playground from the gardens’ remaining reduced lawn area.’ Although familiar with the site, Mr. Dorward does not mention that the playground is currently separated from the open lawn area. The Spicer Memorial, metal railings and deep planting all currently create a break between the lawn and playground that does not allow any relationship between them.
	8. Under ‘Objections relating to loss of public open space’, the focus in Mr. Dorward’s assessment on the loss of lawn is understandable considering its visible nature, but what Mr. Dorward and the objectors fail to recognise is that the historic northern area of the lawn is more heavily used due to its sunnier aspect outside of the shade of the mature Plane trees. It was always the team’s design intent, from the concept stage, to keep this part of the site open and in lawn. The inclusion of an accessible route and seating allows all users to move into the heart of the space and enjoy it.
	9. Mr. Dorward believes that the remaining area of the park that is not developed is also reduced in quality. We are surprised that he does believe that the introduction of high quality planting, accessible pathways, inclusive seating or raised walkways to allow equal enjoyment of the views out to the Thames will reduce the current quality of the park.
	10. We would strongly disagree with the point made in 3.26 that the children’s playground is incongruent next to the proposed Memorial. First, on the fact that it currently sits next to existing memorials, and secondly on the basis that the Memorial and landscape is designed to be engaged with and inhabited by the general public.
	11. Mr Dorward states that areas provided for the landform as 700sqm are incorrect as he has measured them at 2000sqm. The 700sqm was a reference to the area in the upper region of the Memorial bronze fins adjacent to the landform ha-ha. The 2000sqm measured by Mr Dorward aligns with the area of lawn above the footprint of the development. Both measurements are correct and do not contradict each other.
	12. This directly addresses the point raised by Mr. Dorward in section 3.9, and that he does not appreciate how the landform could support the informal play and recreation of the current flat lawn. There is a misconception that the existing flat lawn is both fully accessible and useful. We have demonstrated in our proof that the lawn in its current condition makes it only accessible to the most able bodied during dry periods of the year. The landscape design proposals seek to improve the condition of the flat areas, increase accessibility to the sunny heart of the park through the use of a path, provide seating in this zone, while also creating a new landscape experience with the landform sloping up towards the Memorial fins. This gradual change in character from north to south retains the open and green character of the lawn while increasing its potential for recreation and informal play.

* 1. The proposed landscape masterplans support all the current activities of the park, currently undertaken by a low density mix of residents, office workers and tourists. The design proposals have been developed to fully support any increase in numbers by an improved path network to accommodate peak movement, while retaining perimeter path and open lawn that is enjoyed by regular visitors.
	2. We believe the proposals improve the quality and experience of Victoria Tower Gardens, through the use of the landscape design to integrate the Holocaust Memorial into the site. We do not believe the installation of this Memorial will lessen the experience of other existing memorials, and reduce the experience of Victoria Tower Gardens by residents, office workers or tourists whether visiting for relaxation, recreation or visiting the Memorial itself.

1. **Rebuttal to Proof of Evidence of Hal Moggridge**
	1. Mr. Hal Moggridge is a respected landscape architect who has submitted a proof of evidence on behalf of The London Gardens Trust in co-operation with The Gardens Trust.
	2. Mr. Moggridge’s primary objection to the UK Holocaust Memorial and Learning Centre, focuses on the value of green spaces in cities, and the existing character of Victoria Tower Garden which he believes should be protected from any development.
	3. Although the references drawn upon to illustrate the point are diverse, we agree whole heartedly that our parks should ‘provide aesthetic and recreational opportunities for urban dwellers’ and that they need to be ‘wholly open, welcoming and inclusive.’ We fully believe that the proposals for the future UK Holocaust Memorial and Learning Centre support these goals through the development of a landscape masterplan that considers the existing park as its genesis. The design decisions made by the team have been informed by the character and functions of Victoria Tower Gardens, while creating a new landscape experience that improves upon what is currently there.
	4. The ten minute perimeter walk, noted in Item 5, is retained in the proposed landscape design to allow for ‘a wandering visit’, and is further enhanced with areas of deep planting and additional seating, the ‘detail around the edges’ referred to in Item 6.
	5. Mr. Moggridge, as we do too, highly values the seats along the Thames and the views they afford. The planning documents describe in detail how these views are central in the creation of a raised walkway to create an inclusive experience for all visitors which the current raised seats do not allow for.
	6. We also agree with Mr. Moggridge’s points on the expansive quality of the River Thames, described in Item 6. The proposed landscape scheme responds through the gentle rise of the diagonal path to engage with this view, currently not possible on the site for most users.
	7. The sightlines and views considered important by Mr. Moggridge have each been responded to through the shaping of the Memorial and landscape to retain a coherent narrative for the visitor as well as recognising the importance of each in its own right. These are described in detail through the planning documents.
	8. It is therefore surprising to read under Item 7, that ‘The proposed development seeks to replace this with a new arrangement conceived for the benefit of the proposed new UKHMLC’ As described above, each of the key characteristics of Victoria Tower Gardens which Mr. Moggridge values, have been responded to in a sensitive and meaningful landscape design solution.
	9. As opposed to the idea that the Memorial has created an alien landscape, disconnected from its context, Victoria Tower Gardens, its characters, its existing memorials and environment, has informed all design decisions on the project. It does create a new Memorial and landform to the southern end of the park, but using landscape led solutions, that seek to enhance the park setting further.
	10. The simplicity of the perimeter path is retained and improved, with the walk along the Thames Embankment made fully accessible. These existing perimeter routes are enhanced with deep planted beds, offering a different experience for walking and sitting, to the proposed central diagonal path. This central path expresses a desire line, across the open sunny heart of the park towards Lambeth Bridge, and the entrance to the Memorial.
	11. The planning documents fully describe the scale of the Memorial with respect to the Palace of Westminster, and illustrate that the visual impact from the southern end of the site, is limited and potentially no more than the elevation of the Parliamentary Learning Centre at the northern end of the site.
	12. Mr. Moggridge raises concerns, under item 9, of the usefulness of Victoria Tower Gardens if the Memorial is developed on the site. As described above and in the planning documents, the layout and character of the park is retained for the enjoyment of local residents, office workers and tourists, supplemented with additional enhancements to further enjoy the context.
	13. It is incorrectly stated in item 10, that ‘this proposal treats the park as little more than access to UKHMLC with provision of a through route for walkers, and so would fail to ensure its continuing future use as a small but important park’ It is noted in the planning documents that there would be a small percentage loss of open accessible area in the park. The rest of the park though retains its core functionality and usefulness for enjoyment, as reiterated above.
	14. We fully recognise the current range of diverse uses which Victoria Tower Gardens supports, listed by Mr. Moggridge in items 11 and 14. They are discussed in detail in the planning documents and the landscape proposals continue to facilitate their function for the local community and other users of the space. It is a special characteristic of the park that it can be both calm and reflective, as well as active and busy as waves of different users move through it. Reference made by Mr Moggridge that ‘Many of the activities undertaken now by large numbers would be impossible in this proposed future’, is supposition, not supported by fact and counter to the design intent of the project.
	15. It is unclear what point is being made in Item 12, but it is important to reiterate that the proposals support the continued presence of the playground. The increased areas of planting will further improve the biodiversity of the park, retaining its natural character for local children and families. Mr. Moggridge’s point regarding the disconnection of the playground to the lawn, in item 14, is incorrect. The current arrangement separates the playground with the Spicer Memorial, metal railings and deep planted beds. There is no relationship between the two.
	16. Further objections in item 14, incorrectly state that the Buxton Memorial’s axial relationship to St. John Smith Square is lost when it is retained, and that a network of criss cross paths is proposed when the plans do not show any.
	17. Mr. Moggridge’s concern about ‘despoiling’ a park setting, in item 15, illustrates a failure to understand both the importance of the UK Holocaust Memorial in this location, and the considered design response that has successfully integrated it into Victoria Tower Gardens, with minimum loss of open space while supporting the needs of all users.
	18. The landscape design proposals retain the openness, and tranquillity of Victoria Tower Gardens, while enhancing its beauty for the enjoyment of all users.
	19. The landscape design proposals retain the openness, and tranquillity of Victoria Tower Gardens, while enhancing its beauty for the enjoyment of all users.
	20. Mr. Moggridge assesses the potential impact of construction on the existing trees in Victoria Tower Gardens in item 20. The issues associated with potential soil compaction by construction traffic, placement of site services and storage of materials are all generic issues on construction sites and not exclusive to Victoria Tower Gardens. Each can be managed through the protection of the ground and trees which are referred to in the planning documentation.
	21. The protection of trees, above and below ground, during the construction stage, is addressed in detail through the production of the Arboricultural Method Statement (AMS).This brings together all aspects of the construction methodology with the specialist input of the contractor and a qualified arboriculturist. A detailed AMS would be issued to the WCC in advance of the construction works commencing, for review and approval.
	22. The design team has undertaken initial assessments on the potential risks with Bartlett Tree Experts, and using best practice methodology as well as precedent case studies, can demonstrate that concerns raised can be both managed and mitigated to ensure the trees are protected from damage during the construction stage.
2. **Rebuttal to Proof of Evidence of Rowan Moore**
	1. Rowan Moore is a respected architectural critic and writer who has submitted a Proof of Evidence prepared on behalf of Save Victoria Tower Gardens.
	2. Mr. Moore’s primary objection to the development of the UK Holocaust Memorial and Learning Centre, is that the design is generic and not of sufficient quality.
	3. While Gustafson Porter + Bowman have led the landscape design for the project, from the moment of competition conception, the project has been a collaboration of three design minds to create a special and unique site specific response.
	4. With respect to issues raised by Mr. Moore, we believe that the concept which lifts the corner of the open lawn, up to the bronze Holocaust Memorial, is a design response that sets up the unfolding drama of the Memorial while embedding into the natural setting of Victoria Tower Gardens.
	5. The landscape masterplan holds the simplicity of form and character of the existing park, minimising the new interventions to enhance the setting for the enjoyment of all users.
	6. In 4.2.4, Mr. Moore raises a concern that the landscape could be anywhere, is generic and non-specific. The observation fails to recognise that the landscape is designed to support the Memorial rather than compete with it. The primary natural character and simple material palette of the existing Victoria Tower Gardens is the inception for the landscape design. The new stone path and courtyard are simple and bold in form with detail refined down to the minimum to mark its presence but not distract from the setting or the Memorial.
	7. Mr. Moore suggests in 4.2.5.3, that the courtyard does not support moments of lingering or contemplation. The planning application documents illustrate that pockets of seating, deep within the planting of the courtyard which provides these moments of respite and reflection of the Holocaust Memorial.
	8. The criticisms raise by Mr. Moore in 4.2.5.3, on the use of planting at the playground as infill separating the playground from general circulation, do not recognise that this is a preferable means of providing a secure edge to the play area while framing the approach into Victoria Tower Gardens by planted zones. The alternative of railings, as currently seen on the site, is less successful.
	9. Counter to Mr. Moore’s observations, we believe that the project design remains the most appropriate site specific response that respects that character of Victoria Tower Gardens and supports its wide range of activities and users, while creating a unique experience for visitors to reflect and remember the tragedy of the Holocaust.
3. **Rebuttal to Proof of Evidence of Sally Prothero**
	1. Sally Prothero’s Proof of Evidence, on behalf of the London Gardens Trust, focuses primarily on the value of Victoria Tower Gardens as a historical asset both with respect to the individual features and as a park in its own right.
	2. The design proposals for the Holocaust Memorial responds to the significance of the important historical context, the recognisable character of the park and the individual memorials and features of the existing landscape. Considerable attention has been given by the design team to reflect on the appropriate design solutions and create a suitable expression both in the architecture and landscape that fully integrates the development into the existing park landscape. It has always been our intention to realise the further potential of the park for all its users and activities while respecting the arc of Victoria Tower Gardens’ changing character from its original layouts to the current day.
	3. Mrs. Prothero’s assessment in 2.1.11 that the ‘the applicant has not understood the significance’ of the Buxton Memorial is incorrect. The importance of the historic structure was recognised as a primary consideration in the placement of the entire development, and the modelling of the Holocaust Memorial and surrounding landscapes.
	4. The position of the Holocaust Memorial is stepped behind the view corridor from Dean Stanley Street, and even at it highest point, remains lower than the Buxton Memorial. Its bronze form steps down in height adjacent to the Buxton Memorial, responding to its presence and ensuring it remains visible from the northern half of the park.
	5. The immediate landscape has been designed to enhance the idea of the Buxton as a gathering point. An open space is defined, with seating provided and open views both into the park and across the Memorial Courtyard. This will create a focal point for visitors and school groups while further supporting the Buxton Memorial’s interpretation and understanding.
	6. The landscape masterplan is embedded in the natural character of Victoria Tower Gardens, and the reference to a civic space, 2.1.13, is incorrect. The changes to the soft and hard landscape layout is focused on improving the existing path network, and provide more extensive planting to increase the enjoyment of all visitors to the space.
	7. It is possible that Mrs. Prothero has misinterpreted the proposals as the calculations set out on p111 and p112 of her Proof of Evidence document has a number of inconsistencies in them.
		* The green area hatched and defined as area ‘of existing, open accessible lawn and park space’ includes some existing paths (hardstandings), memorials and seating, but is predominantly trying to align with the lawn area.
		* Areas of seating and paths to the Embankment side are not included in the assessment although they are part of the park space.
		* Areas of planting to the Millbank side are not included in the assessment although they are part of the park space.
		* The assessment then considers any new paths as a loss to the open space which is inconsistent with the initial boundary.
		* Area 2c is incorrectly identified as an area of lost space, although it supports movement through the park and provides seated areas.
		* The lawn area of the landform is discounted on the hypothetical assumptions of being fenced off. This is incorrect as shown in the planning drawings where the boundary to the ha ha is at the top of the Memorial.
	8. The lack of consistency in the area assessment makes the figures derived invalid in the arguments which rely on them in the Proof of Evidence.
4. **Rebuttal to Proof of Evidence of Mark Mackworth-Praed**
	1. Mark Mackworth-Praed’s evidence, prepared on behalf of Westminster City Council, reviews the development with respect to arboricultural matters. A rebuttal to his proof is prepared in more detail by Dr. Frank Hope, and I will only cover those aspects of the proof which relate to the development of the landscape design details and buildability.
	2. Section 2.5 reviews the potential construction logistics associated with the main basement box which will house the Learning Centre and support the Holocaust Memorial and landscape. Through the planning consultation process it was noted that a detailed Arboricultural Method Statement (AMS) would be prepared in advance of construction work to describe the agreed construction methodology with respect to the protection of trees and management of the site. This was reiterated in the planning documents, as it is necessary to have an experienced contractor engaged on a project to allow the AMS to be prepared in consultation with the qualified arboriculturalist.
	3. The design team has developed a design solution that seeks to minimise the construction footprint of the development, undertaking construction beneath the canopy of trees if necessary, and maintain safe working distances from the two lines of mature Plane trees.
	4. Mr. Mackworth-Praed’s description of a guide wall in 2.5.2 does not make reference to the fact that this can be assembled above ground and does not require additional excavation.
	5. The description of the Hostile Vehicle Mitigation (HVM) design, Section 2.6, incorrectly assigns the raft foundations with the stand alone intermediate posts. The design proposals have combined the raft foundations within the zones for the collapsible bollards at each gate entrance. This creates a maximised profiled foundation in an area that is currently 600-800mm hardstanding.
	6. More shallow 200mm deep intermediate posts of the HVM are proposed between the existing trees, spaced approximately 10-12m apart. While there is a caveat on the drawings that “The detailed structural design of the foundations is to be completed at the next stage of work”, this refers to the potential to reduce the size even further with the input of an appointed contractor. The size indicated on the drawings is intentionally conservative to identify the maximum potential footprint of these foundations for the purposes of planning.
	7. The trial pit excavations, referred to by Mr. Mackworth-Praed, in 2.6.4, have fully proven the feasibility of each post and foundation location. In the location where a root has been identified, it is not necessary to prune, and the design of the foundation can accommodate it without damage to it.
	8. Mr. Mackworth-Praed misunderstands the statement that ‘the overall design can be altered’ which is referred to in 2.6.5. This is not suggesting that the HVM can be located elsewhere in Victoria Tower Gardens but rather the individual posts can be flexibly repositioned along the proposed security line should this be necessary. As all locations have been proven, it reduces the potential risk at the construction stage of damage to the tree roots in these locations.
	9. In the discussion on underground services at Section 2.7, Mr. Mackworth-Praed recognises that the application refers to the hand-dug broken trench technique of NJUG Vol.4 as a methodology to protect existing roots. This would form the basis for the future AMS and as such addresses the question as to whether the tree would be protected or not during construction.
	10. During the pre-planning consultation, it was discussed with WCC that the services trench could be a single concrete structure or each run could be ‘independently laid’. Both parties agreed that while the second approach would be more likely to take longer, it was beneficial in allowing ducts to be laid between any roots that may be uncovered during the survey. Mr. Mackworth-Praed has misunderstood this approach in his interpretation of the sentence in 2.7.5. He has also misunderstood that on a single construction site such as this, the main contractor would coordinate the installation of the service ducts within one excavation, leaving the independent service provider to only pull through the necessary cables. This addresses the concerns raised and reduces the risk of serious damage to the roots in these locations.
	11. In addition to misunderstanding the construction methodology of the underground services which would comply with BS:5837, the assessment made in 2.7.7, of significant damage to trees 70000-70002, 71023, 71024 and 71026, fails to recognise the construction history of the southern edge of the site. The installation of the current Spicer Playground in 2015, required extensive excavations to install the safety play surfaces, play equipment and pipework to the water feature. It would be expected that, as per the trench surveys across the rest of the site, the existing hardstanding does not yield extensive roots in 600-800mm depth. This reduces the potential risk at construction stage of any significant damage to the tree roots in these locations.
	12. The assessments of each design element in the landscape with respect to the potential for damage to the existing tree roots fails to recognise the holistic approach the design team has taken to ensure these roots are protected. The extensive site investigations have illustrated that existing hardstandings across VTG do not support tree root growth in the top 600-800mm. The team has proposed foundation solutions that do not exceed these depths, and secondly allow for flexibility in form, size and position should a tree root be uncovered during pre-construction surveys.
	13. Mr. Mackworth Praed’s assessment attempts to build a picture of unknowns and high risks associated with the construction stage activity. The preparedness of the design team has mitigated these risks, and through the Arboricultural Impact Assessment (AIA) the project has clearly stated that all construction stage activity would be informed by the guidelines of BS:5837 and NJUG Vol4, under the detailed supervision of an onsite arboriculturist.
	14. There are multiple potential methods in finalising the construction detail and management plans which is why an AMS is prepared with an engaged contractor. The concerns raised by Mr. Mackworth in Section 2.10, about construction stage activity pertains to every construction site and is managed through the planning conditions which require a fully detailed AMS to be issued in advance of the construction works for approval by the local authority.