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London SW1P 4DF

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Attn: Decision Officer Planning Casework Unit  
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By post and email

22 August 2021

**THIS IS A PRE-ACTION LETTER  
AND REQUIRES YOUR URGENT ATTENTION PLEASE**

Dear Sirs

**Proposed Holocaust Memorial in Victoria Tower Gardens  
Minister of State's decision to grant permission dated 29 July 2021**

Introduction

1. We are instructed by the London Historic Parks and Gardens Trust in relation to the above. They together with many others are concerned about the above decision. Subject to the Minister's response to this letter, we anticipate being instructed to lodge proceedings under s.288 TCPA 1990. The purpose of this letter is to seek observations on the proposed grounds of challenge and information that may serve to narrow the issues.

Claimant

2. The presently intending claimant is the London Historic Parks and Gardens Trust, of Duck Island Cottage, c/o The Store Yard, St James's Park, London SW1A 2BJ. LHPGT is a registered charity limited by guarantee and governed by a board of trustees. As you are aware it has taken a deep interest in the above proposals and appeared at the public inquiry which led to the decision challenged and is aggrieved by the decision to grant permission. It was referred to there as the London Gardens Trust.

Defendant

3. MHCLG as above. Please in your response provide details of whom to communicate with over this matter if it proceeds. We are emailing it based on past dealings in this

matter as above and also to Government Legal Department as below.

#### Decision the subject of this letter

4. The decision potentially challenged is the Minister's decision of 29 July 2021 (DL) made following a report (IR) from David Morgan, an Inspector appointed on behalf of the Minister, dated 29 April 2021 and released at the same time as the DL. The decision was to grant planning permission as set out therein.

#### Factual Background

5. You are well familiar with the factual background to this matter and we do not intend to set it out in this letter. Of course, much can be derived from the IR. Certain issues however require clarification as set out further below and in the request for information at the end of the letter.

#### Grounds of challenge

##### 6. Ground 1 – unlawful assessment of harm to the Buxton Memorial

The Minister applied the wrong legal test for determining whether the harm to the significance of the Buxton Memorial as a heritage asset (a Grade II\* listed building) was to be regarded as “substantial” or “less than substantial”. Further or alternatively, inadequate reasons were given for the Inspector’s conclusion, with which the Minister agreed at DL23, that the harm to the Buxton Memorial “remains well below the threshold of substantial” (IR 15.69).

7. The proposed development would not physically affect the Buxton Memorial, but it would affect its setting. The Inspector found that “the open spatial context to the memorial is a constituent of its significance” (IR15.69) and that the proposed development “would fail to preserve the setting of the Buxton Memorial” (IR15.69). He concluded that the sense of space around the structure allows “the viewer to at first perceive its distant presence, then to be drawn by its ‘fanciful’ play of forms, detail and colour and then when close appreciate its memorial purpose and importance.” (IR15.66). He found that, apart from views from the Embankment, from points in close proximity to it “its setting would visually become quickly congested [and] at this point the radically differing aesthetic moods of the existing and proposed structures would collide in uneasy and discordant juxtaposition... the visual dominance of the UKHMLC would unsettle and crowd the Buxton Memorial, significantly infringing the viewer’s opportunity to settle and contemplate its purpose and architecture, and thus fully appreciate its multi-faceted significance.” (IR15.67).
8. The Inspector concluded that “the space such an expressive historic structure needs to be properly appreciated would be demonstrably curtailed” (IR15.93) and that “this harm to the setting of the Grade II\* memorial” was to be “characterise[d]... as being of great importance” (IR 15.69).
9. The Inspector nonetheless merely asserted against that, that the harm “remains well below the threshold of substantial” (IR15.69) but gave no reasons for that conclusion.
10. As Baroness Hale stated in Majorstake Ltd v. Curtis [2008] 1 AC 787 at [40], “‘Substantial’ is a word which has a wide range of meanings. Sometimes it can mean

“not little”. Sometimes it can mean “almost complete”, as in “in substantial agreement”. Often it means “big” or “solid”, as in a “substantial house”. Sometimes it means “weighty” or “serious”, as in a “substantial reason”. It will take its meaning from its context.”

11. Since “less than substantial harm” is still significant in terms of heritage assets and the policy directed at their protection, substantial harm cannot merely mean “not little” in this context.
12. Jay J stated in Bedford BC v. SoSCLG [2012] EWHC 4344 at [26] that “‘Substantial’ and ‘serious’ may be regarded as interchangeable adjectives in this context”. That is consistent with the advice in PPG para 018 Reference ID: 18a-018-20190723 that, when considering whether or not any harm is “substantial”, “an important consideration would be whether the adverse impact seriously affects a key element of [a listed building’s] special architectural or historic interest. It is the degree of harm to the asset’s significance... that is to be assessed. The harm may arise from works to the asset or from development within its setting” (emphasis supplied).
13. “Significance” is defined in the Glossary to the NPPF (for heritage policy) as “the value of a heritage asset to this and future generations because of its heritage interest... Significance derives not only from the asset’s physical presence, but also from its setting”.
14. As noted above, the Inspector found that “the open spatial context to the memorial is a constituent of its significance” (IR15.69); that “the space such an expressive historic structure needs to be properly appreciated would be demonstrably curtailed” (IR15.93); that the proposed development would “significantly” infringe “the viewer’s opportunity to settle and contemplate its purpose and architecture, and thus fully appreciate its multi-faceted significance” (IR15.67); and that the harm to the setting could be characterised as being of “great importance” (IR15.69).
15. The test that the Inspector adopted (at IR15.12), with which the Minister agreed (at DL18), was whether there is a “serious degree of harm to the asset’s significance”. The Inspector concluded that such a serious effect depended on “whether the adverse impact ‘seriously’ affects a key element of special interest” or whether the asset’s significance needs “to be very much, if not at all, drained away” (same reference). The latter formulation also comes from Bedford BC at [25] but is one which has no basis in the NPPF or the associated guidance.
16. The Inspector concluded, however, that there was “little to call between both interpretations” (IR15.12). It follows that he took the view that, to be “substantial”, any harm must be so serious that all or “very much” of the significance of the asset must be destroyed for it to constitute “substantial harm”.
17. That interpretation is not consistent with the PPG and the Minister erred in agreeing with the conclusion that it was. A “key element” in the interest of a heritage asset (ie. here, the setting of the Buxton Memorial) might be destroyed or “very much drained away” without the significance of the asset as a whole (whose value may also be derived from other elements) being destroyed or “very much drained away”. Nor is it consistent with the view that “substantial” and “serious” in this context are interchangeable adjectives (as Jay J stated in Bedford and as reflected in that guidance). Harm to an asset’s significance can be serious without it necessarily being very nearly destroyed or “drained away”.

18. Ground 2 – unlawful assessment of harm to Victoria Tower Gardens

The Inspector's assessment of the harm to Victoria Tower Gardens, a Grade II Registered Park and Garden stems only from the harm to the setting of the Buxton Memorial and the potential harm to a number of trees (IR15.94). The Minister agreed with that conclusion (and the Inspector's conclusions in IR15.74-15.94) at DL25. The harm to the significance of and harm to the Registered Park and Garden was not lawfully considered.

19. The Inspector's conclusion was based on the earlier conclusion in IR15.89 that "despite the scale and scope of the intervention suggested by the proposals (including topographical change and structural densification, as well as noticeable though momentary infraction of views), their effect on the special interest and significance of the RPG would be neutral" (emphasis supplied).
20. The Inspector's reasoning to support this conclusion is inadequate in that it fails to address (1) what the special historic interest and significance of Victoria Tower Gardens as a Registered Park and Garden is and (2) whether it will be harmed by what is proposed.
21. Victoria Tower Gardens is registered as a Registered Park and Garden because of its "special historic interest" in accordance with section 8C of the Historic Buildings and Ancient Monuments Act 1953. Again, for the purpose of the NPPF's heritage policies, its "significance" is its "value... to this and future generations because of its heritage interest".
22. It is identified in the list of RPGs as a "public garden laid out in 1879 and extended in 1914 with the layout revised in 1955-6". Accordingly, the relevant question is whether its historic or heritage interest as such a garden open to the public will be harmed.
23. The Inspector concluded that "the scheme would alter the park's character overall" (IR15.214). That conclusion is inconsistent with his conclusion that the garden's historic character would be preserved if the application proposals were implemented and/or that the effect of the proposals on the park's historic character will be "neutral" (IR15.89).
24. The Inspector's approach was to focus, not on whether the existing historic interest as such a garden will be harmed, but rather on whether the result of the proposed development would, or would not, provide as good a public space as now exists. That was not the relevant initial question. Any compensating effects of the proposed development may be relevant when considering whether the public benefits outweigh any harm to the "significance" of the asset. Absent such compensating effects, the harm to its significance may be "substantial".
25. The Inspector identified that the "key attributes" that justify the park's registration as being "aesthetic and functional" (IR 15.74). He never clearly identifies, however, what the special historic interest associated with either of these two attributes in his view are. In terms of the function of the park, the Inspector does not state that what its special historic interest is.
26. Despite concluding that effect on the special interest and significance of the RPG would be neutral, the Inspector in fact concluded that the park's historic character will not

survive. He states that: “In overall functional terms the opportunities for informal use within the park would, to a degree, be diminished. The perception of the park as being a space primarily offering quiet relaxation would change, with its role as the setting for the UKHMLC inevitably becoming the more substantial element of its identity as a public space. In these circumstances there has to be a fair probability that local residents would be discouraged from using the park for informal recreation purposes, particularly at busier times” (IR 15.211).

27. The Inspector concluded that local residents and users “would perceive a distinct change to the form and function of VTG” (IR15.213). Accordingly, the park would no longer be seen, nor would its character be seen, as a garden open to the public providing a quiet green oasis for recreation amidst urban development. It will be perceived primarily, and its character would be seen, as the setting for the UKHMLC, an area which the public may in practice be discouraged from using for informal recreation, which does not reflect, on any basis, its existing special historic interest and is something that will inevitably detract from it.
28. The Inspector’s reasoning for his conclusion that the effect of the proposed development will be neutral insofar as the function of Victoria Tower Gardens was concerned was based on the benefits the scheme would have in supporting its function and amenity as a “park” and its “ambient vitality as a public space”; “the resilience and capacity of the existing character of the park to accommodate such change”; and his conclusion “that the new spatial enclaves created by the UKHMLC would in turn be adopted and used by visitors, undeterred by its commemorative or educative purposes” (IR15.88). His conclusion was that “its character would be changed, reinvested, and re-expressed by changing patterns of use and activity, but these would not, in my view, amount to anything near a measure of what could be described as substantive harm” (same reference).
29. However, it cannot be suggested that such improvements and the use the new “spatial enclaves” will mean that the function of the park as a public garden will be improved overall given that the Inspector found that “in overall functional terms the opportunities for informal use within the park would, to a degree, be diminished”. Moreover, such matters do not mean that the existing historic character will not be materially changed.
30. The Inspector found that its existing character will be changed overall. It may be that the changing patterns of use and activity will express VTG’s new character as “primarily” providing the setting for the UKHMLC and that may mean in the Inspector’s view that the change will not involve “substantive harm”. But that does not mean that there will be no harm to VTG’s existing special historic or heritage interest or its “significance”. It merely indicates that the result of the proposed development, given its compensating benefits, would provide in his view at least as good a public space as now exists, albeit one with a different primary functional character.
31. The Inspector’s approach to the other key attribute of VTG, its aesthetic quality, is also similarly flawed.
32. The Inspector is clear that he considers its existing “highly picturesque landscape character and special interest” is provided by the “simple evolved components of bold structure, open unadorned lawn, striking monuments, and above all the framing twin stands of mature plane trees along its eastern and western boundaries” (IR15.76). This gives the park “openness” (IR 15.77) and creates its sense of being a “quiet, green oasis”

(IR15.190).

33. As the Inspector points out at IR15.78, “in this context, any significant intervention would be likely to affect this established character” and “the primary elements of the proposed development... would be, without question, cumulatively a significant intervention to this RPG”. Having referred to the “topographical presence of the combined earthen and sculptural structure in the otherwise tabular landscape”, whose presence will be consolidated by “the associated infrastructure of entrance pavilion, courtyard walling, railings and structural planting”, he considered that “this nexus of forms and spaces would, in specific circumstances, appear dense and congested, and so at variance with the greater open simple character of the park” (IR15.80).
34. Having stated that “the combined structure would otherwise be very sensitively mediated within its context” (IR15.82), the Inspector nonetheless concluded that “there is no doubt that the UKHMLC would, by its physical presence, alter the character of the park and thus its spatial balance would be changed” (IR15.87).
35. The Inspector’s reasoning for his conclusion that the effect of the proposed development will be “neutral” insofar as this key “aesthetic” attribute is concerned was that “despite the scale and scope of the intervention suggested by the proposals (including topographical change and structural densification, as well as noticeable though momentary infraction of views), their effect on the special interest and significance of the RPG would be neutral. As set out above, this outcome would be as much due to the high degree of skill and sensitivity applied to the design process, in terms of structure and landscaping, as to the offer of a range of works proposed, underscored by an emphasis on quality materials, that would deliver tangible benefits to the structure, utility and character of the park” (IR15.89).
36. This reasoning is also flawed. The “degree of skill and sensitivity applied to the design process” was taken into account before the Inspector concluded (inevitably) that the historic open tabular landscape character of the park and its spatial balance would be changed.
37. Even assuming a change in that existing character or the range of works proposed would be beneficial, it does not follow that there will be no harm to VTG’s existing special historic or heritage interest or its “significance”, in aesthetic terms or that the effect of the proposed development on that character is “neutral”. It merely indicates that the result of the proposed development, given its compensating benefits, would provide in the Inspector’s view at least as good a “park” aesthetically as now exists, albeit one with a different character.
38. Accordingly, the Inspector erred in failing to find that the proposed development would cause harm to the significance of Victoria Tower Gardens, that is to say to its special historic interest or heritage value, by harming its key historic functional and aesthetic attributes (in addition to the harm caused in relation to the harm to the setting of the Buxton Memorial and the potential harm to a limited number of trees).
39. In turn, it was necessary to decide whether or not the harm to VTG would be substantial or less than substantial. If the effect was on VTG’s significance were to be substantial, the test for granting permission would be more stringent than that in fact applied.

40. Ground 3 – Failure to address the London County Council (Improvements) Act 1900
41. As noted above, Victoria Tower Gardens was laid out in 1879 and was subsequently extended to include the land (“New Garden Land” as below) on which the HMLC is proposed to be constructed.
42. The long title to the London County Council (Improvements) Act 1900 recites that it was an Act to empower the London County Council (LCC) to make an extension of the Thames Embankment and a new street and improvements at Westminster (and for other purposes). Section 2 contains definitions. Section 7 contains provisions as to the embankment works. Section 8 contains provisions as to the Thames Embankment Extension and Improvements at Westminster and recites that these involve occupation of lands vested in or under the control of the Commissioners of Works and necessitating some interference with Victoria Tower Gardens. The relevant land and proposed for the HMLC is referred to as the “New Garden Land”.
43. Section 8 provides in mandatory terms (a) for the laying out and maintenance of the New Garden Land as a garden for the public (“shall be laid out and maintained in manner hereinafter provided as a garden” [which is] “open to the public”) and “and as an integral part of the existing Victoria Tower Garden”; (b) for the LCC to carry out the clearance and levelling works to the satisfaction of the Commissioners of Works and to vest the land in the Commissioners; (c) for the Commissioners to lay the land out as a garden and do related works and be recouped up to £5,000 by the LCC; and (d) for the Commissioners to maintain the garden so laid out. Laying out of the land pursuant to s.8(6) was carried out and completed but s.8(8) provided a continuing obligation to maintain.
44. Overall, the New Garden Land is an integral part of Victoria Tower Gardens, and indeed cannot even be used as a separate or distinct garden with a different design. Consistent with the statutory obligation, the New Garden Land has been maintained for the past century by the Commissioners and its statutory successors in title as a garden open to the public and as an integral part of Victoria Tower Gardens. That obligation currently falls on the Secretary of State (in fact, for Culture Media and Sport) as the owner of the New Garden Land and ultimate statutory successor to the Commissioners of Works.
45. The area proposed taken up by the HMLC would clearly take up and dominate the greater part of the southern section of what is now Victoria Tower Gardens as extended by the New Garden Land. Thus the erection and use of the proposed HMLC would plainly contravene the terms of s.8 of the 1900 Act including placing the Secretary of State in breach of the continuing statutory obligation under s.8 to maintain the New Garden Land as a garden open to the public and as an integral part of Victoria Tower Gardens.
46. The requirements of the Act represent a prohibition on using Victoria Tower Gardens as anything other than a garden open to the public and in the context of the DL and IR are a material consideration which neither the Inspector nor the Minister considered, other than one mention of the 1900 Act, at IR 12.15, with no comment or conclusions drawn. The proposed development of the HMLC was plainly not going to comply with the 1900 Act. The failure to consider the development in the context of the requirements of the Act was an error of law.

47. Ground 4 – unlawful approach to the issue of alternative sites
48. The Inspector approached the question of alternative locations for the application proposals on the basis that, “in order that it may garner significant weight, the merits of such alternatives must, logically, be underpinned by a good measure of evidence demonstrating their viability and credibility as such an alternative” (IR15.164). The Minister agreed with this conclusion at DL34.
49. This is advanced as a general proposition but is contrary to law. There is no legal requirement to identify and establish the existence of a specific site as a preferable alternative before an application can be refused on the basis that a particular need can be satisfied elsewhere, Trusthouse Forte Ltd v. SoSE (1986) 53 P&CR 293 at 300-301.
50. The Holocaust Memorial Commission regarded the land surrounding the Imperial War Museum as a viable option provided a way could be found to meet its vision for a prominent and striking memorial, see IR4.10. The Inspector concluded that the weight to be afforded to the IWM alternative in the planning balance is “very limited” as, “whilst seeming to offer a benign alternative, IWM lacks a detailed scheme that would meet the core requirements of the HMC and carries clear potential constraints that may hamper its delivery” (IR15.169).
51. The Inspector is here not saying that a prominent and striking memorial may not be able to be provided at the IWM with less harm than it would cause at Victoria Tower Gardens given the constraints to which he refers. He is merely saying that there are constraints that may hamper its provision and it has not been demonstrated that it can be provided (given his views of the IWM feasibility scheme at IR15.167). This approach reflects the test he applied in IR15.164 as to when significant weight should be given to any suggested alternative.
52. However, such a test is wrong: it puts a burden on any objector that, in the context of a proposal such as HMLC, may well prove impracticable to discharge without providing a feasible scheme showing how a prominent and striking memorial can be provided with less harm than at Victoria Tower Gardens. But, as a matter of law, there is no burden of proof on an applicant to show the absence of any alternative site or on any objector to show that there is in absence of any relevant planning policy imposing it; there is no burden of proof on anyone, South Cambridgeshire District Council v. SoSCLG [2008] EWCA Civ 1010, [2009] PTSR 37.
53. The Inspector’s test is also inconsistent with paragraph 200 of the NPPF which stipulates that “any harm to, or loss of, the significance of a designated heritage asset... should require clear and convincing justification”. There can be no such justification if the applicant cannot show that there is no alternative site on which the proposed development can be accommodated without such harm.
54. Ground 5 – inadequate reasoning in conclusions on harm to trees
55. The Inspector’s conclusions on the issue of whether the application proposals would result in harm to or loss of trees of amenity value were that “it is inevitable that localised harm to some of the trees on the western side of the park would be likely to occur. The risk level for trees 71012, 71013, 71017 and 71018 [four mature plane trees on the western boundary of the park] all of which are currently showing mild to moderate physiological stress, indicate they would be the more vulnerable” (IR15.61); he notes

that “The complexity of the physiological processes involved in determining tree health and vitality mean that it is impossible to predict outcomes for future tree health with any degree of certainty” (IR15.62); but nevertheless concluded that “it is possible that the impact of this development could lead to the ill-health and decline, and potentially the loss of one or more of these trees. However, this is not an inevitable outcome and the trees might well survive to achieve their life expectancy” (same reference).

56. He reached the final conclusion on the issue that the “judgements on harm [are] finely balanced” and that “the effect on trees of amenity value is that a limited mid-section of the western stand of London planes in proximity to the proposal would, in the long-term, be the poorer for its construction. Although this degree of ecological and thus visual impoverishment would, in the context of the group of trees as a whole, be slight, it would nevertheless result in harm to or loss of trees of amenity value” (IR15.64).
57. The Minister expressly agreed with this latter conclusion in DL21, having stated in DL20 that “For the reasons given at IR15.50-15.59, the Minister of State agrees with the Inspector that it would not be possible to mitigate against harm caused as a result of root loss or severance for the main elements of the development (IR15.59) and as such there is a clear risk of harm to the affected trees. He further agrees that the affected trees’ decline and possible eventual loss, and the effect this would have on the character and appearance of the Westminster Abbey and Parliament Square Conservation Area as a whole needs to form part of the heritage balance (IR15.59)”.
58. However, neither the Inspector nor the Minister express any view on or grapple with the question of what the ultimate harm to the Westminster Abbey and Parliament Square Conservation Area would be if the implementation of the application proposals led to the “loss of one or more of these trees” and whether that would be acceptable. The Minister’s reasoning on this issue was therefore legally inadequate.
59. Ground 6 – unlawful approach to flood risk
60. [Please see below under information required.]

#### Further information

61. Alternative sites. As above (Ground [4]) a point central to this matter concerns the choice of site and suitability of alternative locations for the HMLC. We are aware of some documents that exist which may shed light on this issue, and others will almost certainly exist as set out below. We have tried to be as precise as possible but in any event as part of your duty of candour please supply all documents, correspondence etc. (including minutes of meetings between ministers, officials, external funders and other proponents of the project) relevant to this issue. This request is addressed to the Minister as decision-maker but also the Secretary of State (copied) as proponent of the project.
  - a. The passages in the minutes of the UK Holocaust Memorial Foundation from 23 July 2015 to 13 July 2016 inclusive which relate to the choice of location for the UK Holocaust Memorial and the associated Learning Centre. We believe the following may be particularly relevant:
    - (i) section 4 of the Minutes dated 23 July 2015 (‘4. Property Sites: Progress to Date’);

- (ii) a section on pages 1 – 2 of the Minutes dated 10 November 2015 ('Memorial and Learning Centre site search');
- (iii) section 1 of the Minutes dated 13 January 2016 ('1. National Memorial and Learning Centre site search');
- (iv) a section on pages 1 – 2 of the Minutes dated 13 April 2016 ('Learning Centre Site Selection'); and
- (v) a section on pages 1 – 2 of the Minutes dated 13 July 2016 ('UPDATE ON VICTORIA TOWER GARDENS');

together with any other relevant passages.

- b. The passages in the minutes of the UK Holocaust Memorial Foundation from 23 July 2015 to 13 July 2016 inclusive which relate to changes in the specification of the features and facilities of the Learning Centre between the publication of the document entitled 'National Memorial and Learning Centre: Search for a central London site' in September 2015 and the launch of the design competition in September 2016; and
  - c. The papers circulated to the board of the UK Holocaust Memorial Foundation for the agenda items which gave rise to the items in the board's minutes as above.
  - d. A list of all meetings concerned with the location of the HMLC and the consideration of alternative sites between (i) any individual members of the UKHMF board (or that board as a whole) and (ii) David Cameron and/or Cabinet Office officials, relating to the location of the HMLC, between 1 November 2015 and 13 July 2016 inclusive, together with the records of those meetings.
  - e. A list of the government sites considered by the UKHMF board or any sub-committee such as a property sub-committee between November 2015 and January 2016 inclusive.
  - f. A copy of all estimates made by UKHMF or MHCLG up to and including 31 January 2016 of the costs of (i) obtaining the site and (ii) constructing the HMLC, at (a) VTG, (b) the IWM and (c) the three sites shortlisted by CBRE in January 2016.
  - g. A record of all communications between the IWM and either the MHCLG or the UKHMF or its offshoots executing HMLC relating to the potential location of the HMLC at the IWM between 1 October 2015 and the present.
62. Flooding. As above, this has not been developed as a ground, but we have concerns about the way flooding was addressed by the IR and DL. We note the conclusion (in effect) that the risk from flooding by tide and/or breach of the embankment wall was small and if it occurred it could be coped with to ensure safety of visitors and staff. We have reservations about that conclusion; but in any event, we need clarification on two points.
63. First, whether flash flooding from rainfall was considered, and if so, why not – there was after all serious flash flooding in London in July 2021 (ie. before the DL was issued) and even if evacuation of visitors and staff could have been coped with it strikes us as a far more likely event than the type of river flooding considered. Indeed, it is surely such a danger with climate change that quite apart from the question of danger to human beings (who may well be able to be evacuated) what of the contents and systems installed in

the LC? Please advise, by reference to relevant documents and correspondence, including advice from the Environment Agency, Meteorological Office and any other concerned bodies what consideration was given to flash flooding, indeed as is and as would presumably be exacerbated by increased hard standing. Please also advise what (if any) aspects of design of the HMLC are intended to cope with such occurrence ie. keep out the water from an apparently completely open entrance.

64. Secondly, and in any event, that is including both flash flooding and the river flooding, what advice was obtained from the Environment Agency and/or other concerned bodies during the preparation of the project including application of the sequential test in relation to possible alternative sites? We refer to the 2021 NPPF at [159-165].

Details of the action that the proposed defendant is expected to take

65. The Minister is requested to agree that his decision was erroneous and that it should be subject to a consent order to quash it and pay our client's costs.

Interested parties

66. These appear to be relevant interested parties, but please advise if you consider otherwise:
- a. Westminster City Council of Town Hall, 64 Victoria St, London SW1E 6QP. Contact: Kirsten Chohan.
  - b. The UK Holocaust Memorial and Learning Centre, Delivery Unit. We understand this to be an arm of your own department at the above address. The contact detail we have is Alex Powell.
67. Both are copied this letter for information and response please. As above this is also copied to the Government Legal Department.

Legal advisers

68. Richard Buxton Solicitors, Environmental Planning and Public Law, details as above.

Period for reply

69. By 3 September 2021 please.

Yours faithfully



Richard Buxton

- cc. Westminster City Council (ref: 19/00114/FULL, attn: Kirsten Chohan)  
UK Holocaust Memorial and Learning Centre, Delivery Unit (attn: Alex Powell)  
Government Legal Department (attn: James Barry)