

HOLOCAUST MEMORIAL BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Holocaust Memorial Bill as brought from the House of Commons on 18 July 2024 (HL Bill 4).

- These Explanatory Notes have been prepared by the Ministry of Housing, Communities and Local Government in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Bill

- 1 The purpose of this Bill is to make provision for and in connection with expenditure by the Secretary of State on the construction, use, maintenance, operation or improvement of a Holocaust Memorial and Learning Centre, and the removal of restrictions to the siting of the Holocaust Memorial and Learning Centre on certain land.

Policy background

- 2 In January 2014, the then Prime Minister David Cameron launched the cross-party Holocaust Commission to examine what more should be done in Britain to ensure that the memory of the Holocaust is preserved and that the lessons it teaches are never forgotten. The Commission recommended a “striking” new Memorial should be constructed in a “prominent central London location” to show the UK’s commitment to remembering the Holocaust, with a world class Learning Centre using “cutting edge technology”¹. In January 2015, the Prime Minister accepted the Commission’s recommendations and committed the Government to establish a new national Holocaust Memorial and Learning Centre.
- 3 The Holocaust Memorial will be a focal point for national remembrance of the Holocaust, dedicated to the six million Jewish men, women and children who were murdered and all other victims of the Nazis and their collaborators. The Learning Centre’s exhibition will explore the part played by Britain’s Parliament and democratic institutions in response to the persecution of the Jewish people and other groups both at the time and subsequently. It will help people understand the way the lessons of the Holocaust apply more widely, including to other genocides.
- 4 Following an extensive search for suitable sites, Victoria Tower Gardens was recommended to the Government as the most fitting site as its historical, emotional and political significance substantially outweighed all other locations. The Holocaust Memorial and Learning Centre was also seen to be in keeping with other memorials sited in the Gardens representing democratic struggles for equality and justice. Victoria Tower Gardens is Crown Land for which the Department for Culture, Media and Sport hold the title. The Government accepted the recommendation and announced Victoria Tower Gardens as the chosen location for the Memorial on 27 January 2016 to mark Holocaust Memorial Day.
- 5 Following an international competition, the winning design for the Memorial and co-located Learning Centre was announced in October 2017². The design was chosen because it met an essential challenge of the brief by being visually arresting yet showing sensitivity to its location and context. The winning design was further developed to meet the requirements of the chosen site, and to ensure that the new features and landscaping improvements will benefit all users of the gardens.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/398645/Holocaust_Commission_Report_Britains_promise_to_remember.pdf

² <https://www.gov.uk/government/news/adjaye-associates-and-ron-arad-architects-win-uk-holocaust-memorial-international-design-competition>

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Legal background

- 6 Some expenditure has been incurred to date in connection with the development of the proposed Memorial and Learning Centre, including on the preparation of an application for planning consent. The Secretary of State has relied on common law powers. More significant expenditure will need to be incurred in order to construct, maintain, operate or improve the Memorial and Learning Centre, and as set out in Chapter 2 of HM Treasury's document *Managing Public Money*, Ministers must normally seek Parliamentary authority for specific legislation to authorise expenditure on significant new commitments likely to persist.
- 7 An application for planning consent was made by the then Secretary of State for Housing, Communities and Local Government in December 2018 for a Holocaust Memorial and accompanying underground Learning Centre. Following a public inquiry in 2020, planning consent was granted in July 2021. Subsequently in a statutory review of the planning decision the High Court concluded that certain sections of the London County Council (Improvements) Act 1900 ('the 1900 Act') which extended the existing Victoria Tower Gardens southwards and required the Commissioner of Works to maintain the land as a 'garden open to the public' were an obstacle to constructing the Holocaust Memorial and Learning Centre in the Gardens. The High Court quashed the decision to grant planning consent³.
- 8 The Government intends to disapply the relevant sections of the 1900 Act so that they do not constitute an obstacle to construction and operation of the Holocaust Memorial and Learning Centre.
- 9 The Bill was introduced into the House of Commons on 23 February 2023. At introduction the Bill was found to be prima facie hybrid and was referred to the Examiners, who concluded that the Bill is a hybrid Bill. This was set out in their report to the House of 18 May 2023 (HC 1403)⁴. The Examiners considered that private or local interests are affected by the Bill and that the private interests of residents living close to Victoria Tower Gardens would be affected in a manner different from the interests of members of the public who live far away. A hybrid bill has a mix of characteristics of both a public bill and a private bill and is examined in Parliament by a combination of those bill procedures. The hybrid bill procedure gives those persons who are directly and specially affected an opportunity to petition against the Bill and be heard in Select Committee.
- 10 Following Second Reading on 28 June 2023, the House of Commons committed the Bill to a Select Committee to hear petitions against the bill. The Select Committee heard eight petitions and decided not to amend the Bill.⁵ On 22 May 2024 the Bill was reported without amendment, read a Third time and sent to the House of Lords for First Reading.
- 11 From 23 May 2024 it has been open to persons specially and directly affected by provisions in the Bill to submit petitions to the House of Lords. Carry-over Motions were passed by the House of Lords on 23 October 2023 and the House of Commons on 22 May 2024; in accordance with those motions the Bill was presented to the House of Commons on 18 July 2024, was deemed to have passed through all its stages in that House and was presented to the House of Lords. Petitions which were presented during the 2023-24 session shall be taken to be deposited in the 2024-25 session and shall be referred to any Select Committee on the Bill in that session.

³ <https://www.judiciary.uk/wp-content/uploads/2022/07/LHPGT-v-Minister-for-Housing-Judgment-080422.pdf>

⁴ <https://bills.parliament.uk/publications/51224/documents/3620>

⁵ <https://committees.parliament.uk/committee/679/holocaust-memorial-bill-select-committee/publications/>

- 12 The Bill does not include any provisions to enable the construction of the Holocaust Memorial and Learning Centre at Victoria Tower Gardens: planning consent will be sought separately through the provisions of the Town and Country Planning Act 1990.

Territorial extent and application

- 13 This Bill extends to England and Wales but applies to England only.

Commentary on provisions of Bill

Clause 1: Holocaust Memorial and Learning Centre

- 14 This clause provides for the Secretary of State to incur expenditure in relation to the construction, use, maintenance, improvement or operation of a new national Holocaust Memorial and Learning Centre.

Clause 2: Restrictions on using certain land

- 15 This clause provides that the relevant sections of the 1900 Act (Section 8 (1) and Section 8 (8)), which require that Victoria Tower Gardens shall be maintained as a garden open to the public do not prevent the construction and subsequent use, maintenance, operation or improvement of a Holocaust Memorial and Learning Centre.

Clause 3: Commencement, extent and short title

- 16 This clause provides for the extent and coming into force of the provisions of the Bill, and the Bill's short title.

Commencement

- 17 This Bill comes into force at the end of the period of two months beginning with the day on which this Bill is passed.

Financial implications of the Bill

- 18 The costs of building, maintaining and running the Holocaust Memorial and Learning Centre will be met from a combination of public funding and charitable donations.
- 19 Updated costs of £138.8 million were published in a written ministerial statement of 28 June 2023⁶. Charitable donations of £25m towards construction costs are expected, with charitable donations also contributing to annual running costs.

Parliamentary approval for financial costs or for charges imposed

- 20 A money resolution is required for the Bill as the Bill will give rise to new or increased charges on the public revenue. The money resolution will cover any expenditure incurred by the Secretary of State under or by virtue of the Bill.
- 21 The House of Commons approved the money resolution at Second Reading on 28 June 2023. The money resolution continues to apply to the Bill in the current session.

Compatibility with the European Convention on Human Rights

- 22 The Lord Khan of Burnley, Parliamentary Under Secretary of State at the Ministry of Housing, Communities and Local Government, has made a statement under section 19(1)(a) of the Human Rights Act 1998 that, in the Minister's view, the provisions of the Bill are compatible with the Convention.
- 23 The Holocaust Memorial Bill does not interfere with property rights as set out in Protocol 1, Article 1 of the Convention as it does not provide powers to construct the Holocaust Memorial and Learning Centre. Planning consent to build the Holocaust Memorial and Learning Centre in Victoria Tower Gardens will be considered, and consent will be granted or denied, through the land-use planning system under the Town and Country Planning Act 1990.

Environment Act 2021 section 20 statement

- 24 The Lord Khan of Burnley, Parliamentary Under Secretary of State at the Ministry of Housing, Communities and Local Government, is of the view that the Bill as brought from the House of Commons does not contain provision which, if enacted, would be environmental law for the purposes of section 20 of the Environment Act 2021. Accordingly, no statement under that section has been made.

⁶ <https://questions-statements.parliament.uk/written-statements/detail/2023-06-28/hcws891>

European Union (Withdrawal) Act 2018 section 13c statement

- 25 The Lord Khan of Burnley, Parliamentary Under Secretary of State at the Ministry of Housing, Communities and Local Government, is of the view that the Bill as brought from the House of Commons does not contain provision which, if enacted, would affect trade between Northern Ireland and the rest of the United Kingdom. Accordingly, no statement under section 13C of the European Union (Withdrawal) Act 2018 has been made.

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