

From: [REDACTED]
To: [M25 Junction 28](#)
Subject: Gardens of Peace - Response to Deadline 4
Date: 16 March 2021 13:47:56
Attachments: [20210316 - Gardens of Peace - Response to Deadline 4 - Final.pdf](#)

Dear Sir / Madam,

Gardens of Peace - Response to Deadline 4

Please find attached the response to Deadline 4, on behalf of Gardens of Peace. Please note this document includes;

1. Written Summaries of Oral Submission put at any Hearing
2. Response to Action Point 4 within the Action Points arising from the Compulsory Acquisition Hearing
3. Response to Action Point 6 within the Action Points arising from the Compulsory Acquisition Hearing
4. Response to Action Point 7 within the Action Points arising from the Compulsory Acquisition Hearing
5. Comments on Applicants Draft Itinerary for the Accompanied Site Inspection

Please do let me know if you require any further information.

Yours faithfully

[REDACTED]

[REDACTED] **BSc (Hons) MRICS FAAV**
Associate
Compulsory Purchase

Savills, 33 Margaret Street, London W1G 0JD
Tel : +44 (0) 203 618 3583
Mobile [REDACTED]
Email [REDACTED]@savills.com
Website : <http://www.savills.co.uk>



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16 March 2021
20210316 - Gardens of Peace - Response to Deadline 4 - Final



National Infrastructure Planning
Temple Quay House
1 The Square
Bristol
BS1 6PN

██████████ MRICS FAAV
E: ██████████ @savills.com

██████████
33 Margaret Street W1G 0JD

██████████
savills.com

Sent by email to: M25Junction28@planninginspectorate.gov.uk

Dear Sir / Madam

Gardens of Peace Muslim Cemetery (Plot 1/8) – Response to Deadline 4

Savills (UK) Ltd has been instructed by the Trustees of Gardens of Peace Muslim Cemetery to act on its behalf in submitting a response to Deadline 4.

Within this response we provide;

1. Written Summaries of Oral Submission put at any Hearing
 - a. No Formal Confirmation of Mitigating Works
 - b. Concerns of Gardens of Peace
 - c. Amendments to Plot 1/8
2. Response to Action Point 4 within the Action Points arising from the Compulsory Acquisition Hearing
3. Response to Action Point 6 within the Action Points arising from the Compulsory Acquisition Hearing
4. Response to Action Point 7 within the Action Points arising from the Compulsory Acquisition Hearing
5. Comments on Applicants Draft Itinerary for the Accompanied Site Inspection

1. Written Summaries of Oral Submission put at any Hearing

Please note, within the below written summaries or oral submission, we refer to some matters arising post hearings and thus has superseded the oral submission put at any hearing.

a. No Formal Confirmation of Mitigating Works

Gardens of Peace has had site and virtual meetings with Highways England and Cadent Gas since 2019. However, to date Highways England, for whatever reason, has not engaged with Gardens of Peace to formally confirm how the concerns of Gardens of Peace as a result of the Scheme are to be mitigated. This is despite the fact that the concerns (which are summarised under point 'b' below) have been provided, in detail, within the Written Representation, the Examining Authority's Written Questions 1, and the recent Non-statutory Consultation and during meetings with Highways England, Cadent Gas, Atkins and the Valuation Office.

Cadent Gas has however engaged and a meeting was held between Cadent, Atkins, Gardens of Peace and its professional advisors subsequent to the hearings on 15th March 2021. The meeting concerned mitigating matters and whilst encouraging and moving in the right direction, there continues to be uncertainty surrounding some of the mitigating measures, for example location of soil storage. After further consideration from Cadent Gas, it has been proposed that this can now be situated in the

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originally proposed location within the cemetery, with soil collection being via the service entrance (with access being control by Cadent Gas). This new option has been welcomed by Gardens of Peace. This new proposal will mitigate many of the previous concerns, however the proposal is subject to final confirmation and if not adopted, the issue of soil storage remains as originally stated within the written representation. This option is still subject to confirmation that the proposed soil storage area provides sufficient space for Gardens of Peace. However, it is now clear that with careful consideration from Highways England contractors, other less impacting options can be found. Given the limited input from Highways England during this critical period of the Development Consent Order (DCO) process, further time should be given to exploring less harmful options.

It was confirmed during the meeting that draft Heads of Terms concerning the permanent and temporary concerns will be provided shortly. We confirm the draft Heads of Terms were received on the 15th March 2021, two days before the forthcoming deadline. However, until these Heads of Terms are formalised and reviewed by Gardens of Peace legal representative, there is no confirmation that the less impacting options will be adopted. This stage of the process could have been reached months before had there been meaningful engagement from Highways England.

Accordingly, and in light of Highways England not engaging with Gardens of Peace and until a formal agreement has been completed, Gardens of Peace continue to remain anxious that such concerns will not be resolved prior to the potential confirmation of the DCO. This is especially concerning given the cemetery will be open and operational in less than 12 months' time and prior to the construction works of the Scheme commencing.

Prior to the hearings, the only correspondence Savills or Gardens of Peace has received is from the Valuation Office Agency specifically concerning Section 7 of Gardens of Peace Written Representation and the lack of engagement with the Valuation Office Agency. The issue concerning professional's fees is not one of compensation, but a matter concerning conduct of Valuation Office Agency, Highways England's professional advisor. Subsequent to the hearings, the Valuation Office had also provided a draft easement document (received on Monday 15th March).

In regards to the reimbursements of Savills fees, the Valuation Office Agency is making the reimbursement of any Savills fees conditional on Savills reducing its hourly rates, a matter which is not in the gift of Gardens of Peace, being a separate organisation.

It is worrying that the Valuation Office Agency is effectively ransoming the reimbursement of Gardens of Peace's professional fees on a matter that Gardens of Peace has no control. Whether intentional or not, this approach has led to reduced input from Garden of Peace's professional advisors at a critical period within the DCO process. This opportunity to properly engage has now been missed, and the results of this approach can now be seen as Highways England's contractor teams and the Garden of Peace's professional teams rush (and struggle) to resolve the issues within the available time left in the DCO process.

Of the £46,100 + VAT of professional fees (Architects, Quantity Surveyors, Highways Consultant and Savills fees up to mid-February) incurred by Gardens of Peace, Highways England has not agreed to or made a single payment to Gardens of Peace.

Whether or not this approach was intentional, the result of Highways England's failure to explore all options and restrict Gardens of Peace access to professional advice is that if the DCO is confirmed, Highways England will be in very strong position to control any further negotiations.

With the above in mind, we reiterate our view that to allow for proper and reasonable engagement with Highways England, the current application should be rejected and the DCO process repeated.

b. Concerns of Gardens of Peace

We reiterated the concerns of Gardens of Peace during the hearings and have previously provided these, in detail, within the Written Representation, the response to the Examining Authority's Written Questions 1, the response to Highways England's Non-Statutory consultation and during meetings with Highways England, Atkins, Cadent Gas and Valuation Office. However, for the purpose of this submission, we summarise these below.

As referred to in point 'a' above, we have now received the draft Heads of Terms. Firstly, as these Heads of Terms have just been received, it provides very little time to review and to determine whether the Heads of Terms reflect meaningful progress ahead of forthcoming deadlines. The draft Heads of Terms are in a very brief form and accordingly will require substantial time in reviewing, fleshing out and amending the document to reflect the mitigating matters verbally agreed in a meeting between Gardens of Peace and Cadent Gas (15th March 2021).

Furthermore, it is irregular for Heads of Terms relating to such matters to state that professional fees incurred in relation to the Heads of Terms are "subject of a separate agreement between the Trustees and Valuation Office Agency", as these draft Heads of Terms do. This has not been the arrangement on other recent Highways England agreements relating to DCOs that Savills has been involved in, where reasonable professional fees were included within the agreement.

Inserting unusual and contentious clauses into the Heads of Terms will only make reaching agreement more challenging. This condition is, coincidentally or otherwise, one that will strengthen Highways England's negotiating position. It also brings into question Highways England's intent on reaching agreement prior to the end of the DCO process. This is typical of the nature of the engagement experience since initial engagement commencement.

Until a formal agreement is completed, these continue to be of concern;

- i) Loss of Service Entrance** – causing disruption to the daily cemetery operations and bringing rise to safety concerns in light of all cemetery traffic and service vehicles being restricted to the same entrance.
- ii) Soil Storage** – the need to relocate the soil storage area which brings rise to temporary loss of burials, compaction to land prepare for burial plots, the need for heavy good vehicles and plant machinery to access the soil storage area and the impact this will have on the internal roads, which were only designated for the use on congregations members and the effects on the aesthetic appearance of the cemetery when congregations members enter the cemetery.
- iii) Parking** – the temporary loss of visitor parking requires the need to have a temporary car park located on land prepared for burial use. This will cause disruption to traffic management, aesthetics of the cemetery, and also bring rise to safety concerns. Whilst the proposal of aluminium tracking has been proposed, the concerns surrounding safety, requirement for traffic control and loss of additional burial plots remains.
- iv) Loss of Internal Road** – The loss of internal road providing access to the car park, workshop and store will bring rise to the need for a temporary road. As with the temporary car park, this will cause traffic management disruption, damage to land prepared for burial use and further effects on aesthetics. Whilst the proposal of aluminium tracking has been proposed, the concerns surrounding safety, requirement for traffic control and loss of additional burial plots remains.
- v) Disruption to Utility and Site Infrastructure** – As a result of the presence of the new gas main, Gardens of Peace is required to relocate existing infrastructure (underground services). This will likely need to be in the soft landscaping adjoining the internal road, which sterilises land prepared for burial use.

- vi) **Loss of Burial Plots** – Despite the amendment to Plot 1/8 and the reduction in area subject to acquisition of permanent rights, there is still concern there will be a permanent loss of burial plots.
- vii) **Easement** - Gardens of Peace requested a draft Easement document in August 2020 which would outline the land use restrictions in light of the gas main. The easement was provided on 15th March 2021. This will be reviewed by Gardens of Peace to ensure it does not prohibit it from undertaking the intended use of the land with Plot 1/8 (although this is unlikely as Highways England had confirmed in its response to Gardens of Peace’s Written Questions that there “*will be no future land restrictions over Plot 1/8*” (see TR010029/EXAM/9.36 - REP2-029-45)).
- viii) **Viewpoints / Photomontage** – Concerns surrounding the visual impact of the Scheme on the cemetery have been raised. Within its response to Gardens of Peace’s Written Questions 1, Highways England confirm “*it is also noted that there is an existing mature tree belt which runs along between the A12 and Gardens of Peace which provides a visual screening belt. There is no intention to remove this screening belt as part of the construction of the Scheme and therefore this will provide visual screen to Gardens of Peace*” (see TR010029/EXAM/9.36 - REP2-029-17). However this tree belt is under the management of TfL and there has been no formal confirmation from TfL that it will retain this tree belt to act as a visual screen.

c. Amendments to Plot 1/8

As referred to within the hearings, Gardens of Peace welcome the change to Plot 1/8 (Change 4 / Work Number 29), however there continues to be concern surrounding the potential loss of a some burial plots and the mitigating measures required to reduce the effect of the Scheme on the cemetery whilst the construction works are being undertaken. The Architect acting on behalf of Gardens of Peace has provided an additional drawing to support these concerns and as confirmed during the hearing, Savills has sent this onto Thomas Selby, M25 Junction 28 Project Manager, at the Highways Agency. During the meeting with Cadent Gas and Atkins on Monday 15th March, these concerns were eliminated as it was clarified (and as per the plans shared by Simon Harris) that there will be no overlap between the easement and burial land.

As the plans were only shared during a virtual meeting, Gardens of Peace look forward to receiving from Highways England the additional and larger scale drawings illustrating the extent of Plot 1/8, and as shown on the land plans at Deadline 3a. We note these are to be received by Gardens of Peace by Deadline 4 (Wednesday 17th March).

2. Response to Action Point 4 within the Action Points arising from the Compulsory Acquisition Hearing – “Gardens of Peace Muslim Cemetery (Gardens of Peace) to confirm their position on the accepted Change Request no.4 received at D3a”

Whilst the deadline for this submission is Tuesday 13 April (Deadline 5), we provide our response within this submission following a meeting with Cadent Gas and Atkins on Monday 15th March.

As referred to in point ‘c’ above, Gardens of Peace welcome the changes to Plot 1/8 and work number 4. This will eliminate the concerns surrounding loss of burial plots as there will not be an overlap between the easement and burial land.

This said, matters do need to be formally agreed in regards to mitigating measures as a result of the Scheme on the cemetery. For the purpose of this response, we reiterate the comments made in point ‘b’ above.

3. Response to Action Point 6 within the Action Points arising from the Compulsory Acquisition Hearing – “Gardens of Peace to receive wording of the easements”

We confirm that a draft easement document has been received by Gardens of Peace in advance of Deadline 4.

4. Response to Action Point 7 of the Action Points arising from the Compulsory Acquisition Hearing – “Gardens of Peace and the Applicant to respond on need for additional requirement in DCO to secure the extent of works proposed on Gardens of Peace land”

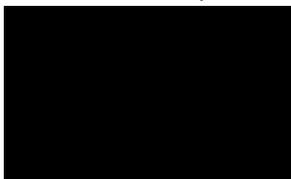
In response to the Examining Authority’s request at ‘Action 7’ following the Compulsory Acquisition Hearing, Gardens of Peace confirm the need for additional requirement in the DCO to secure the extent of works proposed on Gardens of Peace land. It is requested that the additional requirement should form an agreement outlining all the mitigating measures to be adopted by Highways England in order to minimise and eliminate the effects of the Scheme of the cemetery. We have now received draft Heads of Terms on this matter, but will require substantial time in reviewing and fleshing out the very basic terms provided.

5. Comments on Applicants Draft Itinerary for the Accompanied Site Inspection

In response to the Examining Authorities request for comments of the Applicants draft itinerary for the Accompanied Site inspection (ASI), Gardens of Peace do not have any comments in regards to the draft itinerary but look forward to meeting with the Examining Authority on site to discuss the concerns listed above. Given the nature of the meeting, Gardens of Peace professional advisors will also be in attendance.

We hope we have provided the information you require.

Yours faithfully



 MRICS FAAV
Associate