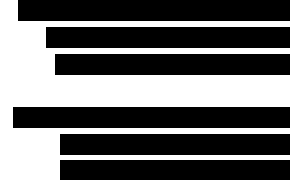


9 June 2021
20210609 - Gardens of Peace - Response to Deadline 8 - FINAL



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Dear Sir / Madam

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

Savills (UK) Ltd has been instructed by the Trustees of Gardens of Peace Muslim Cemetery (“Gardens of Peace”) to act on its behalf in submitting a response to Deadline 8.

Within this submission, we provide the response in three parts;

- **Part 1:** Comments on the Applicants written submission of its case put orally at Issue Specific Hearing 3 (ISH3) on Environmental matters held on 12 May 2021 (document REP7-018)
- **Part 2:** Comments on the Applicants response to action points from ISH3 held on 12 May 2021 (document REP7-019)
- **Part 3:** Responses to Applicant’s comments on Gardens of Peace Deadline 6 submission (REP-023)

Part 1: Comments on the Applicants written submission of its case put orally at Issue Specific Hearing 3 (ISH3) on Environmental matters held on 12 May 2021 (document REP7-018)

Comments are provided on the submission made by the Applicant at Deadline 7 (REP7-018). For the purpose of this response, we provide the Applicants original paragraph reference and text within the submission (in italic font) followed by Gardens of Peace’s comment;

6.1.17 The ExA questioned whether the tri-party agreement with Gardens of Peace (GoP) will be submitted into the examination or whether there will be a SoCG, if there are confidentiality issues.

6.1.18 MC confirmed that Highways England will either submit a redacted version of the actual agreement or a summary of the main points in order to inform the ExA appropriately. MC confirmed that discussions are continuing, and Highways England hopes to finalise the agreement before the end of examination.

Gardens of Peace Comment: Gardens of Peace confirms its continued intention to work towards entering into the Tri-party Agreement by 7th July, being the closing date of the examination. Notwithstanding this, and whilst the detail of the majority of the mitigating measures is being discussed between the legal representatives, there are still four significant issues yet to be finalised which we refer to in Part 3 of this submission.



6.1.19 MC confirmed that the proposed temporary car park is outside the Order limits and stated that Highways England is happy to apply for planning permission from LBH in respect of this element.

Gardens of Peace Comment: Gardens of Peace welcome confirmation that the Applicant is to seek planning approval for the temporary car park within the cemetery, which falls outside the order limits. We refer to this further in Part 3 of this submission.

6.1.20 MC also confirmed, in response to concerns raised by GoP, that Highways England has no intention of interfering with the tree belt owned by TfL which is within the Order limits but unaffected by the DCO Scheme.

Post-hearing note – Highways England confirms that as part of the DCO Scheme no trees owned by TfL which are within the Order limits would need to be removed to facilitate the DCO Scheme along the A12 verge adjacent to the Gardens of Pease site. However, to facilitate the Designated Funds NMU scheme some trees within the grassed verge adjacent to the Gardens of Peace site that are owned by TfL would need to be felled to allow for the construction of the shared use cycleway. The current number of trees that would need to be removed is 9. The potential to retain any of these trees is being reviewed as part of a detailed design process. Similarly, the potential to compensate for these losses with new tree planting along the verge is being considered and TfL is to be consulted on this matter. No trees within the Gardens of Peace itself would need to be felled for the purposes of the designated funds NMU Scheme.

Gardens of Peace Comment: Gardens of Peace, and its professional advisors are disappointed and frustrated with the Applicants 'post-hearing note'. Prior to Deadline 7 in both the ISH3 and written submissions, the Applicant had reassured Gardens of Peace that the tree belt concerned will not be affected by the Scheme.

Furthermore, and subsequent to the publication of document REP7-018, a video conference was held on 27 May 2021 between the legal representatives of Gardens of Peace, the Applicant and Cadent Gas where the matter of the tree belt was discussed. However at no point was Gardens of Peace legal representative made aware of the above 'post-hearing note' and to the contrary understood that the Applicant to be indicating that Transport for London would be invited to confirm there would be no pollarding in the tree belt (other than for safety reasons) for the period of the Scheme construction works adjacent to the A12.

Gardens of Peace request that no tree felling or pollarding takes place within the tree belt between the cemetery and the A12 due to the adverse visual and sounds affects it will cause on the daily operations of the cemetery. Furthermore, Gardens of Peace and its professional advisors urgently require clarification on which trees are being referred to within the 'post-hearing note' and when they are proposed to be felled as any planting up of trees will be insufficient due to time it takes for a tree to mature and thus any planting up will not alleviate the effects of the cemetery being opened up to the A12 and the Scheme construction works.

Part 2: Comments on the Applicants response to action points from ISH3 held on 12 May 2021 (document REP7-019)

For the purpose of Part 2 of this submission, we first provide the Action Point set by the ExA followed by the Applicants response (in italic font). Gardens of Peace's comment is provided thereafter.

Action Point 14: *Update on discussions and submission of a statement confirming agreement has been reached and signed with the Gardens of Peace Muslim Cemetery (Gardens of Peace).*

Applicants Response: *Highways England is waiting for comments back from the legal advisors for the Trustees of the Gardens of Peace (the Trustees). As outlined by both parties at Deadline 6 and in the ISH3 hearing (paragraph 6.14 of TR010029/EXAM/9.96), it is anticipated that the agreement will be signed by all parties. At the final Deadline of the Examination, Highways England will provide a statement to the ExA with an update on the status of the agreement.*

Gardens of Peace Comment: Gardens of Peace legal representative met with the Applicant's and Cadent Gas' legal representatives by video conference on 27 May 2021 to discuss various matters of the Tri-party agreement, having previously returned wording on the initial draft agreement to the Applicant's and Cadent Gas' legal representative. As referred to within Part 1 of this submission, it is Gardens of Peace intention to work towards completing the agreement by the closing date of the examination period, however, this will be subject to four pressing concerns being agreed, which are referred to below in Part 3 of this submission. The draft agreement was returned to Gardens of Peace's legal representative on 3 June 2021 with comments from the Applicant and Cadent Gas. These are currently being reviewed and will be responded to shortly.

Part 3: Responses to Applicant's comments on Gardens of Peace Deadline 6 submission (REP-023)

For the purpose of Part 3, we do not intend on replying to each individual response made by the Applicant to Gardens of Peace's submission at Deadline 6. The reason for this is that many of the concerns of Gardens of Peace and the mitigating measures to alleviate these concerns are informally agreed, with the details being discussed between the relevant legal representatives and which will be captured within the Tri-party Agreement.

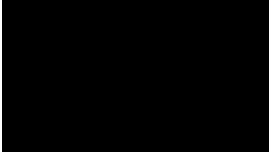
However, we take this opportunity to reiterate the pressing concerns of Gardens of Peace in relation to the draft Tri-party Agreement and the Scheme;

1. **Drainage** – There is a need for a temporary drainage scheme in order to prevent any run-off and potential pollution during the construction period and Gardens of Peace has been asked to accommodate this within the remainder of the cemetery, which falls outside the Order limits. To date no proposal which meets the operational requirements of the cemetery and is acceptable to the Trustees has been identified. Whilst Gardens of Peace continue to be willing to work with the Applicant to find a suitable solution, it is not clear how the Applicant's Scheme will be deliverable without a privately agreed solution.
2. **Planning Application** – As referred to in previous submissions, during the ISH3 and in Part 1 of this submission, there is a need for the Applicant to apply for planning approval for the temporary car park on land within the cemetery which falls outside the order limits. Should approval not be granted for the car park, or should approval be delayed beyond the Applicant taking occupation of Plot 1/8, the cemetery will be without parking for cemetery visitors meaning the cemetery will not be able to operate once the Applicant takes occupation of Plot 1/8. This will cause substantial business disruption and an inability to meet the burial demands of the local Muslim community which the cemetery serves.
3. **Tree Belt** – The existing tree belt between the cemetery and the A12 acts as a visual and sound screen from the A12 and will provide screening from the Scheme construction works outside of the Gardens of Peace site. Up to the date of Deadline 7, the applicant had reassured Gardens of Peace that the tree belt will not be touched and thus no visual and sound effects over and above those of Plot 1/8, will be caused to the cemetery. However, for Gardens of Peace to read in a submission made by the Applicant at this late stage in the examination process that this is no longer the case is disappointing and frustrating. Any tree felling will not only remove valuable screening from the effects of the Scheme construction works but could additionally cause disruption to the cemetery and daily burials. Gardens of Peace request that at no point should any of the tree belt be felled or pollarded by the Applicant and that the Applicant should make good its indication that TfL will be asked to commit to this.
4. **Timings** – Gardens of Peace are currently reviewing the Applicant's and Cadent Gas' most recent proposal of taking entry on 1st March 2022. Gardens of Peace are reviewing this alongside its development timeline and cemetery operational requirements.

At this late stage of the examination process, we find it concerning that the above four issues are still outstanding. Without these matters mitigated, or otherwise, it puts Gardens of Peace in a very precarious position in terms of the daily effects of the Scheme on the cemetery and the potential substantial business interruption.

We hope we have provided the information you require.

Yours faithfully



Gwyn Church MRICS FAAV
Associate