



Historic England

[REDACTED]
Shepway District Council
Civic Centre
Castle Hill Avenue
FOLKESTONE
Kent
CT20 2QY

Our ref: P00666110
Your ref: Y17/1042/SH
Telephone [REDACTED]
Fax [REDACTED]

26 October 2017

[REDACTED]
**T&CP (Development Management Procedure) (England) Order 2015
& Planning (Listed Buildings & Conservation Areas) Regulations 1990
PRINCES PARADE PROMENADE, PRINCES PARADE, HYTHE, KENT
Application No. Y17/1042/SH**

Thank you for your letter of 21 September 2017 regarding the above application for planning permission. On the basis of the information available to date, we offer the following advice to assist your authority in determining the application.

Summary

As signalled in our pre-application advice, we object to the granting of planning permission. The Royal Military Canal is a scheduled monument and its conservation warrants great weight in any planning decision. It is also part of a related group of heritage assets the significance of which would be diminished if the proposed development were to go ahead. We believe that this proposal would cause serious and unjustified harm to the significance of the RMC and its associated monuments, as a consequence of the proposed major change affecting the setting. We do not consider that the heritage benefits claimed in mitigation of this harm are sufficiently closely related to the proposed development for them to be legitimate part of a planning decision. In accordance with the Development Plan policies and the NPPF, we recommend refusal of permission on heritage grounds.

Historic England Advice

Significance

The Royal Military Canal (RMC) is a unique monument. The RMC is not a normal transport canal but rather was an important part of the country's defences constructed in the early 19th century in response to a very real fear of invasion by Napoleon's army – as real as the fear of Hitler's invasion was in 1940. It was built to delay the advance of a landing force while the British army mustered inland. The RMC, together with the chain of Martello towers along the coast, form the best



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preserved monuments to this chapter of the country's history, and since 1986 the entire length of the RMC has been a scheduled monument (NHLE 1003260) in recognition of its national importance.

The eastern end of the RMC was at Seabrook, where the coastal cliffs to the east give way to the easier landing beaches of St Mary's Bay. To prevent an invading force from passing around the terminal, a complex set of defences was constructed, the surviving elements of which form part of the setting of this part of the RMC:

- the Shorncliffe battery and wall (NHLE 1005117)
- the Shorncliffe redoubt (NHLE 1401815) and
- Martello towers No 8, listed grade II (NHLE 1017174) and No 9, both grade II listed and scheduled (NHLE 1017226).

These fortifications were located so as to form a sophisticated integrated defensive system with carefully thought-through fields of fire¹. The ability to appreciate the connection between related heritage assets has, regrettably, been harmed by more recent changes, but they nevertheless remain highly significant and appreciable as a group.

Amongst the factors that are critical to the ability to appreciate the significance of the RMC at this eastern end is the largely undeveloped nature of the land between the canal and the beach. The construction of the sea wall and coast road has affected the form of the beach, while the former use as a refuse tip has altered the topography in some areas. Even so, with the beach and the canal close to each other, it is easy for people to understand how the RMC would have formed a substantial obstacle to the progress of an invading French army.

Impact of the proposals

The scheduled area of the RMC will not be directly affected by the development proposals; instead it is the setting of the canal that is affected. Setting is defined by the NPPF as the surroundings in which a heritage asset is experienced. Historic England's *Good Practice Advice Note 3* about setting has been drawn upon by the applicants but we do not agree with all of their conclusions. Our assessment of the level of harm is consistently higher than that assessed by the applicant. We welcome, however, the analysis on page 186 of the D & A Statement of the experience of moving between the sea and the landward side of the canal. We agree with its general conclusion that, although compromised, the open seaward setting of the canal makes a substantial contribution to its understanding and appreciation.

The impact of the proposed development would be to divorce the canal from the shore to a much greater degree than currently. Were the canal to become a linear feature between two substantially developed areas, appreciation of its historic role as a barrier would be undermined and with this the ability to understand its design as a fortification. Our detailed comments on the harm that would be caused are attached as an annex which refers to the viewpoints and photomontages as provided in the application. The conclusion reached in the D & A Statement (page 196) is that, overall, the development will lead to 'limited to moderate harm'. We do not agree with this assessment. Whilst we can accept that harm would be 'less than substantial'

¹ We note that the depiction of the Shorncliffe battery wall on Fig 7.2 of the D & A statement is incorrect and this should be as shown on the archive plan TNA MP 1/535 (attached).



within the meaning of the NPPF and its associated guidance, we consider that the overall level of harm would be serious. We also do not agree that current lack of public access to some of the heritage assets discounts the effects on their setting.

It is argued by the applicant that the public benefits of the proposal outweigh the harm that would be caused and this includes the heritage benefits of permitting the development. Improved public access to and interpretation of the RMC and its associated heritage assets and improvements in the condition and management of the RMC are put forward as heritage benefits, to be secured through a S.106 agreement or unilateral undertaking. However, they do not flow from the proposed development and could be implemented in the absence of it. In our view they do not therefore meet the test for public benefits in the Planning Practice Guidance (Paragraph: 020 Reference ID: 18a-020-20140306) so they should be discounted in the determination of the application. We also doubt that they are directly enough related to the development to make them valid undertakings under the CIL Regulations 2010.

We therefore advise that your Council should not allow itself to offset some of the harm to the significance of the RMC that would arise from the proposed development by referring to the proposed improved management and interpretation of the Canal.

Policy considerations.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 creates a duty to determine planning applications in accordance with the adopted development plan unless material considerations indicate otherwise. Two saved policies from the previous (2006) Local Plan are still applicable to this proposal – LR9 and TM8. We think that LR9 to protect open space for recreation, leisure and amenity purposes continues to be appropriate to the site and its use. TM8 was applied to the site in response to the then Local Plan Inspector determining that significant development (for housing) was inappropriate at Princes Parade. We continue to support the intention of the saved TM8 policy and specifically the part which reads “Proposals should not adversely affect the character and setting of the Scheduled Ancient Monument”. The Inspector’s description of it as “one of the finest vistas in the district” is notable and the 2006 report contains much that is equally applicable to the current proposal. The NPPF (2012) and the Core Strategy (2013) make it appropriate to review TM8 but our view is that the Princes Parade site-specific policy UA18 in the submission draft of the Places and Policies Local Plan is not fully NPPF compliant and on this basis we have objected to it – we think that UA18 as drafted fails to consider setting appropriately. UA18 has not been subject to public scrutiny and as such cannot be afforded weight.

The NPPF – a key material consideration – sets out the Government’s vision that planning should be achieving sustainable development. This is defined as having economic, social and environmental dimensions (para 7) and the role of planning includes protecting and enhancing the historic environment. Para 8 identifies that economic, social and environmental gains should be sought jointly and simultaneously. It is a core planning principle in the NPPF that planning should conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations (para 17). The Planning Policy Assessment in the application does not include this in its *Core Land Use Principles* as assessed against the NPPF (D & A Statement page 164) and we think this is a significant omission.



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Section 12 of the NPPF is specific to conserving and enhancing the historic environment. For decision-makers the path begins at paragraph 129, which requires your Council to avoid or minimise conflict between conservation of a heritage asset and any aspect of the proposal. If a proposal cannot be designed to avoid all harm, then the harm should be minimised as part of the design process. Only if you are satisfied that all reasonable measures have been taken in the application to avoid or minimise harm should you proceed to the next step. As the Forge Field case demonstrates, this includes testing the options and assumptions that led to the rejection of less harmful sites.

Paragraph 132 is crucial: '*When considering the impact of proposed development on the significance of a designated heritage asset, **great weight** should be given to the asset's conservation. The more important the asset, the greater the weight should be.*' No other planning consideration is given higher weighting in the NPPF, and scheduled monuments are considered to be 'heritage assets of the highest significance'. The same paragraph confirms that significance can be harmed or lost through alteration or destruction of the heritage asset **or development within its setting**. As heritage assets are irreplaceable any harm or loss should require clear and convincing justification.

The Planning Practice Guidance is also instructive here. 'A thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it' (Paragraph: 013 Reference ID: 18a-013-20140306). Thus the contribution made by the setting of a heritage asset in enabling an appreciation of significance is as important as its contribution to significance itself.

We agree that the correct policy to apply next is 134 rather than 133. There are numerous cases that have gone through the courts to establish that this is not a simple weighing exercise. The effect of the requirement to afford great weight to conserving the RMC as a heritage asset of the highest significance is that very substantial public benefits must be demonstrated to be delivered by proposed developments. We have advised above that the claimed heritage benefits should not be part of your Council's considerations.

Position

Whilst we accept that the re-provision of leisure facilities for the community in Hythe and the surrounding area is important, we do not think that these can only be delivered at Princes Parade, where it would do serious harm to the RMC by affecting its setting at its eastern end. The D & A Statement reviews the different site options available and comes down in favour of Princes Parade. In doing so we do not think that great weight has been afforded to the conservation of the RMC as a designated heritage asset, as is required by the NPPF. The opportunity to locate a leisure centre elsewhere, e.g. at Nickolls Quarry, would avoid the harm to be caused at Princes Parade and we are not convinced that the reasons stated at page 123 of the D & A Statement amount to a clear and convincing justification that Princes Parade should be favoured over other available options.

The inclusion of the residential and commercial elements alongside the leisure centre is described as an essential part of the funding package for this proposal. It has not



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been demonstrated that the quantum of proposed development is the minimum judged necessary to deliver the leisure centre. Since the inclusion of the residential and commercial elements increase the harm to historic significance of the RMC beyond that caused by the leisure centre alone, we think that the necessity of causing this harm must be capable of examination by publication of the viability appraisal that supports the application.

We do not consider that the heritage benefits to the designated assets should be afforded weight in your decision for the reasons given above, but these should in any event only be considered alongside other public benefits once it has been demonstrated that harm is unavoidable or has been minimised. We do not think this is the case. The claimed heritage benefits are not detailed and thus it is impossible to assess what level of improvement to the RMC they could deliver or to be certain that the project is capable of supporting the costs of these.

Recommendation

Historic England objects to the granting of consent for these proposals as they conflict both with the Development Plan and with the advice of the NPPF in that causing serious harm to the significance of a nationally important group of heritage assets, and in particular to the eastern end of the RMC, has not been clearly and convincingly justified. We recommend that the lack of proper justification is sufficient reason in itself to refuse planning permission.

Next Steps

Historic England remains ready to discuss the specifics of this proposal but as our objection relates to the principle of this amount and type of development in this location it will not be overcome by changes to the design of the leisure centre or the illustrative master plan for other elements.

As an application by Shepway DC for land that it owns we would welcome clarification as to whether you would expect any resolution to grant planning permission to be referred to the National Planning Casework Unit for the Secretary of State at DCLG to then consider his position. We are sending a copy of this letter to the NPCU.

We would welcome notice of when this application is likely to go before your Council so that we can consider making representations to members at the committee meeting.

Yours sincerely

[Redacted signature]

[Redacted name]
Principal Inspector of Ancient Monuments

C.C. National Planning Casework Unit

Attachments

Historic England – Concluding Pre-application advice letter 25th May 2017.



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Historic England response re Shepway Places and Policies Local Plan Preferred Options – letter of 18th November 2016.

TNA drawing ref MP1/535

Detailed comments on the harm to significance based on the LVIA and Heritage Viewpoints



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Detailed comments on the harm to significance based on the LVIA and Heritage Viewpoints



Heritage viewpoint (HE1) is from the top of the stone wall of the redoubt at the east end of the scheduled area of the canal. Historic mapping confirms guns directed towards Sandgate but another pointing due south across the canal. The LVIA shows that the new leisure centre will be very prominent in the view south from the redoubt and thus harmful to an understanding of its purpose. This is a view that is described as to be enhanced and interpreted under the applicant's suggestions for the conservation of the RMC.



HE6 is the view from a historic stone wharf within the scheduled area looking west along the length of the canal. It is LVIA view 4. It is stated in the application that the

key aspect of openness on the south side has already been lost but we disagree. The proposed development will be significantly visible in a view in which at present there is undeveloped land on the south side. This is harmful to understanding how the RMC was conceived of as a fortification with open land between it and the sea. The cumulative impact with the permitted but yet to be built canoe club building is noted. In our opinion the leisure centre causes much more harm than the canoe building alone.



LVIA 5 is a view from the north end of the Seabrook footbridge. Though not as old as the RMC the bridge is within the scheduled area and a location from which to experience the canal, looking both along its length and seawards. We think that the new development will be overly prominent from a place at which interpretation of the significance of the canal could be expected to occur. There was a WW2 pill box here.



HE5 is a location within the scheduled area on the historic towpath west of the site adjacent to the golf course. Here the historic ground levels between the north and south sides of the canal are better preserved and the purpose of RMC is clearer. In

the view looking east the proposed development would be much more visible than the current step up in ground levels which occurs at the west end of the application site. Explaining the design and function of the RMC through the historic existence of open land south of the canal will be harmed from this location by the presence of significant new buildings between it and the sea, visible in the view eastward.



LVIA 1 & 2 show views from the esplanade west of the site looking eastwards and are similar in some ways to HE5. In both of these the proposed development is visible in a view which also encompasses the high land on which the Martello towers stand. The broad topographical context to which the RMC and its associated fortifications were a military response can be appreciated from such locations as these. The proposed development will harm the ability to appreciate this. LVIA 2 (above) in particular shows this.

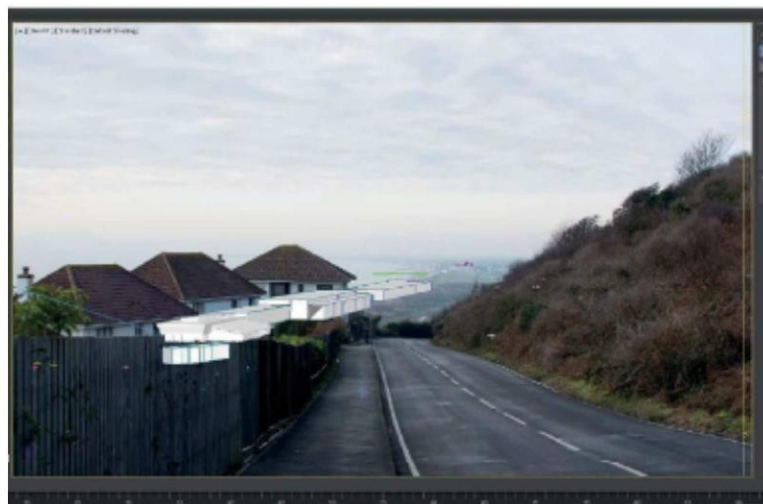


The illustrated master plan shows an impression of how a completed development might appear. This reinforces our concern that the RMC will for most of its eastern end be reduced to a linear monument sandwiched between development on either side of it. Understanding of its historic role as a fortified barrier is undermined by this.

In the image the grade II listed Martello No 9 is shown as a visible structure. This is the outcome that we wish to achieve in order that the historic relationship between the RMC and the tower can be made visible. The tree cover around the tower is of relatively recent growth and historic photos show that the tower was visible from the canal. It must be assumed that the reverse was also true and that Martello No 9 was located with reference to the RMC i.e. with land there within the fire of its gun.



The view from the top of the tower has not been assessed due to access issues. A view towards the canal is included on page 183 in the D & A Statement where we think it is wrongly referred to as close to Martello 8. It should be Martello 9. We think that the RMC and Martello 9 share a historic relationship and each can contribute to the significance of the other by being within their settings. We also think that the view from the top of Martello 9 is likely to include more of the application site than is suggested by the applicant. The decayed state of the Martello tower is not its optimum condition and we should expect that it will at some future date be conserved and made accessible. Tree works in the backdoor training area of Shorncliffe Camp under the permitted scheme are a start to the process of conserving the tower and better revealing the contribution to significance made by its setting. Views similar to that above will become more accessible in future.



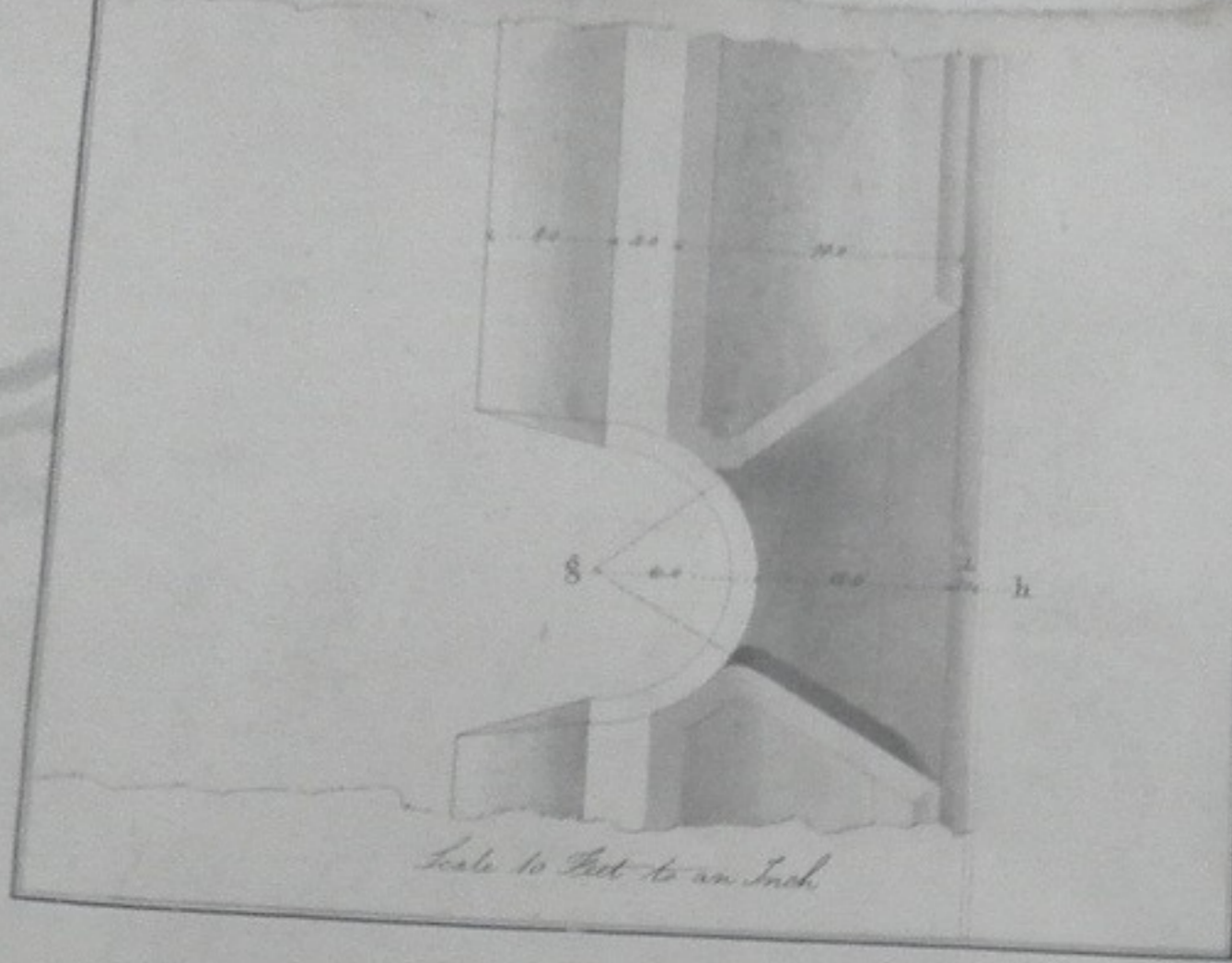
HE2 from the Shorncliffe battery is not illustrated but from our experience we are able to accept that the view to the east end of the RMC is most likely obscured by

later buildings. **HE3** is the view from the top of the grade II listed Martello No 8 and we can accept that the relationship to the east end of the RMC is also mainly obscured by recent development. **LVA view 7** is from the road at Hospital Hill close to this Martello tower. The westernmost part of the new development will be visible from here and similar locations. This will erode the view of the broad sweep of the bay which demonstrates why this stretch of coast was considered so vulnerable to invasion and hence why the RMC and other defences needed to be built. We think similar views might be possible from other parts of the escarpment which will be opened up under existing and future proposals to manage what was the backdoor training area for Shorncliffe Camp.

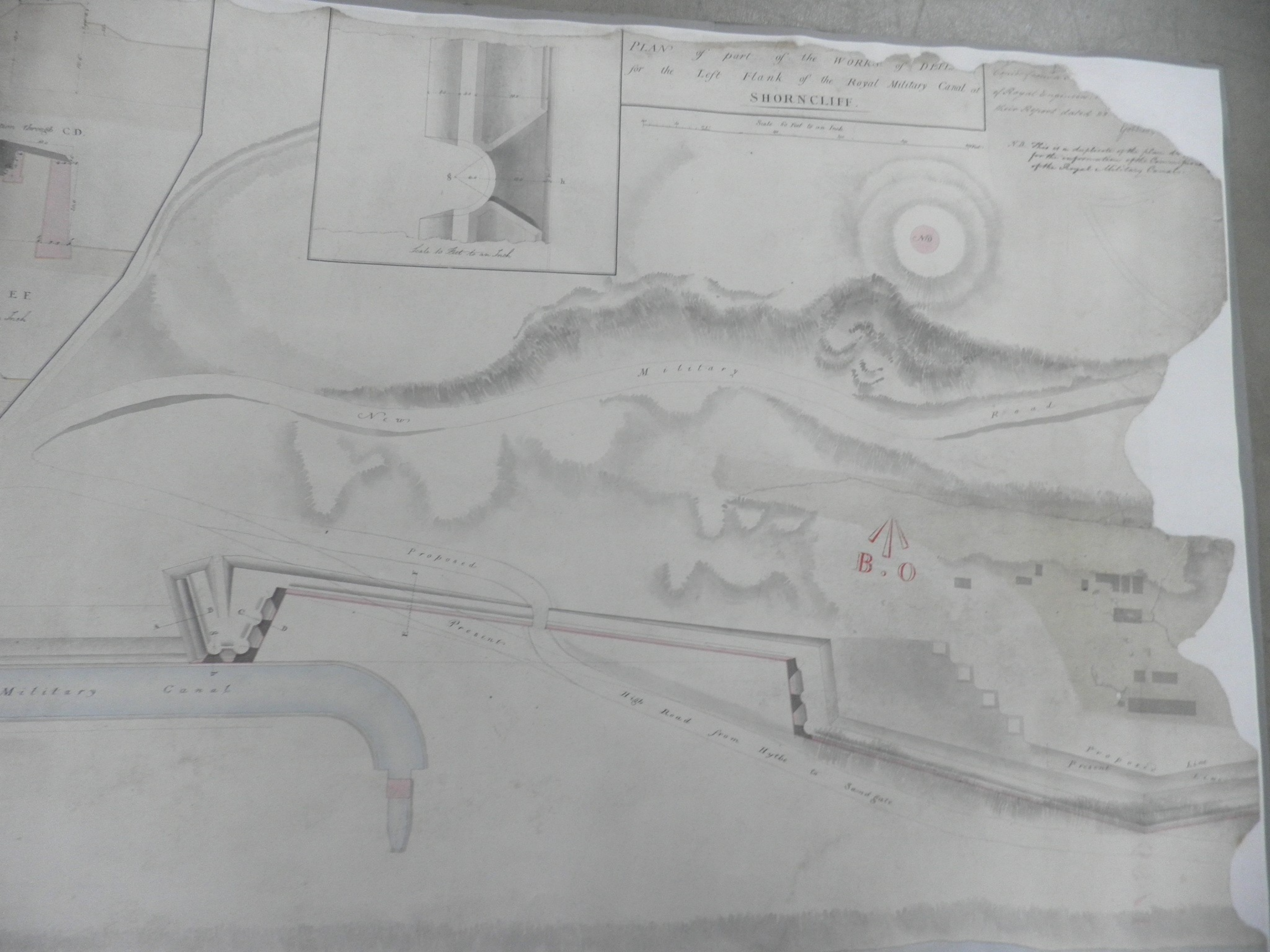
PLAN of part of the WORKS of DEFENCE
for the Left Flank of the Royal Military Canal at
SHORNCLIFF.

of Royal Engineers
their Report dated 23
1795
N.B. This is a duplicate of the plan drawn
for the improvement of the Canal
of the Royal Military Canal.

Scale 10 Feet to an Inch



E.E.
Lock



Military Canal

High Road from Hythe to Sandgate

Proposed
Present



[REDACTED]
Shepway District Council
Castle Hill Avenue
FOLKESTONE
CT20 2QY

25 May 2017

[REDACTED]

CONFIDENTIAL : Initial Pre-Application Advice – Proposed Development at Princes Parade.

I am now able to provide Historic England's concluding pre-application advice based on the information listed in the attached appendix. The most important conclusion that we have reached is that the location, type, amount and, in so far as it is now available for review, the design of the proposed development would cause serious harm to a key aspect of the significance of the designated heritage assets of the Royal Military Canal (RMC) and its associated military structures. This harm arises from change within the setting of these scheduled monuments and the contribution that the setting makes to an understanding and appreciation of their significance.

We do not believe either that the harm that would result from the proposals is clearly and convincingly justified or that the heritage benefits offered as part of the proposals are capable of outweighing the harm to be caused. Furthermore, we do not think that minor amendment of the master plan or increasing the heritage gains will be capable of overcoming this. If we were now to be consulted about an application then our response to your Council would be to object to the granting of planning permission.

I realise that the above response must be a disappointment to you but perhaps, based on our earlier correspondence and discussions, it will not be wholly unexpected. I hope it will be helpful if I set out in more detail the reasons for our position.

Significance of the Heritage Assets Affected

The RMC at Seabrook and its associated military structures, including Martello towers, are nationally important designated heritage assets. The canal was conceived as a fortified





water-filled stopline, rampart and military road. It is illustrative of a period in the early 19th century when invasion was considered to be imminent, resulting in major investment in a complex system of multi-layered defences for the vulnerable SE coast. The design of the RMC illustrates the military tactics of the day and fortification design by renowned British military engineers and commanders. The canal is one of only two waterways in Britain built by the Government. Its western sea connection at Cliffs End (Sussex) does not survive, meaning its eastern end at Seabrook and the complex arrangements here to prevent an enemy from outflanking the fortifications take on more significance.

The Princes Parade proposal does not include development within the scheduled RMC monument itself. For military monuments, however, the land which surrounds them often contributes to their significance as it allows an appreciation of the defensive system of which they were part. The surroundings of the monument make a crucial contribution to understanding and appreciating the significance of the designated heritage assets, despite the undeniable changes that have occurred at the site since the canal was first dug. Substantial areas of undeveloped land between the sea and the canal continue to exist and it is the consequent ability to appreciate the relationship between canal and shore that contributes so much.

Impact of the Proposed Development

By substantially reducing the degree of openness on land south of the RMC and through the introduction of new buildings of an overtly modern form to areas that have never been built upon, the proposed development would have a major impact on the experience of visiting the canal and the ability to appreciate its historic significance.

The current surrounds of the RMC have a different character from the open shingle beach that existed when the canal was first dug. Key changes are the construction of the seawall and coast road which subsequently allowed the shingle beach to become covered in vegetation and some of the land used as a refuse dump, resulting in land raising. The latter has interrupted some but not all of the historic views that the original construction of the canal provided. More recently, modern development around the Seabrook sluices has pressed in on the monument and has obscured some of the historic relationships by which the vulnerable eastern end of the RMC was to have been defended.

Despite all this harmful change, it is nevertheless still possible to experience the canal in a way that enables one to understand its historic purpose and design. Assisted by on-site interpretation, it is possible for visitors to think themselves back to periods of threatened invasion and to imagine use of the canal to repel invaders wading ashore from the sea. The proposed development would turn the RMC into a watercourse with significant amounts of development on either side of it and this would have a suburbanising effect, which would be harmful to its historic character. The master plan includes areas of new park, most of it at the western end where it would connect with the existing golf course. This





green public space does not, in our view, mitigate the loss of a major part of the existing open land at the rest of the site.

The dynamic experience of moving through and around the entire site is important to understanding the RMC, but in order to gauge the visual impact of the proposals we have agreed some specific locations for assessment. These have been illustrated by Lloydbore under Appendix 3 of the LVIA. Some of these represent specific historic views and others are intended to be indicative of the general experience. Our detailed comments on these are included in the Appendix to this letter. In short, they go some way to indicating the effect of the proposals in both close and more distant views of the RMC.

We were anticipating some further viewpoints, perhaps as part of the LVIA if not the heritage view assessment. We have not seen views eastwards from the coast road showing how the proposed development would appear as one progresses from the Imperial Hotel and past the golf course and how in these long views, with the high ground forming a background, the development could harm the ability to understand the topographical location of the canal. We also discussed the views from the footbridge at the centre of the site. This bridge was not part of the original design of the RMC but it has been in place for a long time and it provides an established place from which to look along the length of the canal whilst also looking seawards.

We do not propose to comment at this stage on the design of the proposed leisure centre. Its large volume makes it a very prominent structure; we do not think a different external appearance is capable of addressing our concerns.

An outline list of proposed works has been provided as a means of delivering improvements in the condition, interpretation and future management of the RMC monument itself. Such improvements are warranted and would be welcome. These heritage benefits can be part of an overall weighing exercise of harm versus benefit (see below) but only once harm had been minimised and clearly and convincingly justified. Any agreed heritage improvements would need to be secured by legal agreements.

Policy considerations for the proposal

A planning decision will need to be taken in the context of the NPPF, the Shepway Core Strategy Local Plan 2013 and the saved policies of the Shepway Local Plan (2006). We are aware that the draft Places and Policies Local Plan (2016) looks to allocate Princes Parade for development of the kind that you propose, but this allocation has not been through the examination process and therefore carries little weight. We have objected to allocation of the site for significant development, both as a principle and for the proposed specific wording of the policy.

The NPPF describes how sustainable development needs to seek economic, social and environmental gains jointly and simultaneously (para 8) and how it involves seeking





positive improvements in the quality of the built, natural and historic environment (para 9). Planning authorities are encouraged to look for opportunities for new development within the setting of heritage assets to enhance or better reveal their significance (para 137).

Under the NPPF it is a core planning principle to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations (para 17). In considering the impact of proposed development on the significance of a designated heritage asset **great weight** should be given to the conservation of the asset. No other planning concern is given a greater sense of importance in the NPPF. Significance can be harmed or lost through alteration or destruction of the asset itself or by **development within its setting** (para 132). As heritage assets are irreplaceable, **any harm or loss should require clear and convincing justification** (para 132) and thus planning authorities must rigorously test the case for any harmful works.

Our past discussions have included whether the harm that would be caused by development at Princes Parade would constitute *substantial harm* in NPPF terms such that paras 132 and 133 would be most applicable, or whether it might be *less than substantial harm* such that para 134 is more relevant. Planning Practice Guidance and appeal decisions suggest that such harm must seriously affect a key aspect of significance. This level of harm can arise from development within the setting of a heritage asset. However we do not think that whether or not harm is substantial is the crux of this matter. The NPPF requires that great weight must be given to the conservation of a heritage asset and when the balancing exercise required in NPPF para 134 takes place it is not a simple weighing process. Since all harm requires a clear and convincing justification, it follows that the case for causing harm must be established. If development at other locations might deliver equivalent or similar public benefits then the need to cause harm to a heritage asset would be questionable. Similarly if heritage benefits could be secured by other means without the need for harmful development this could again undermine a case for that development. We do not accept that development is the only means by which such positive works could be achieved and, as the 2004 HLF funding demonstrated, it is possible to contemplate future funding of management of the canal and its surrounds for its heritage, ecological and recreational values without recourse to development-sourced funding.

This is not the first time that significant development has been proposed at this site. The last Local Plan Inspector's 2004 report was very clear that despite the brownfield nature of the former refuse dump, Princes Parade was not appropriate for major development. The view eastwards from the Imperial Hotel was described as one of the finest vistas in Shepway and the contribution made by the RMC was included in the high landscape and recreational value then assigned to the site. This assessment resulted in a proposed housing allocation being overturned. As a result, the now saved site specific policy TM8 was applied to the site and this still forms a major part of the Local Plan basis for





consideration of your major proposal. It is 13 years on from the last inspector's report and many factors could have changed, but the strength of national policy for the conservation of heritage assets is not one of these. Historic England continues to believe that the content of TM8 provides an appropriate context in which to consider proposals for change at Princes Parade in a way that the emerging site allocation does not. Recreational and community facilities are allowed for under the saved policy for the site subject to important criteria which include

- The use should take advantage of and enhance the appearance of the canal and coastline,
- The majority of the site should remain open,
- Proposals should not adversely affect the character and setting of the scheduled monument,
- Built development will only be permitted if justified as essential to the use and should be small scale, low rise and of a high quality design.

Historic England Position

Historic England considers that the proposed development would be seriously harmful to the significance of the RMC as a result of inappropriate change within the land which forms its setting. Whether or not your Council considers this to be *substantial* harm, great weight must be given to conservation of a heritage asset such that the weighing exercise is not a simple question of balancing harm with benefit. We can see how public benefit can be claimed for new public leisure facilities and also how provision of housing might also be a form of public benefit, BUT all harm requires a clear and convincing justification. We think that comparable public benefits could be achieved by leisure facilities at alternative sites, which include the site of the existing Hythe swimming pool and/or the outline permission for development at Nickolls Quarry. The use of either could avoid major harm to the historic environment. Nor can we accept a case that providing new housing at this site is essential as a public benefit. If the emerging plans for the new town of Otterpool Park come to fruition then this will far outstrip the relatively low number of houses proposed at Princes Parade.

The historic environment benefits that development at Princes Parade might fund require consideration but only once harm is minimised, and in our opinion cannot in any case be given great weight since it is credible that the same outcomes could be delivered in alternative ways without recourse to funds sourced from major development. To quote a recent planning appeal decision about the setting of another scheduled monument '*it would be most unfortunate if the heritage interest of a high category asset was to be eroded to facilitate awareness and appreciation of its remaining significance*' (APP/F0114/W/15/3138529).

Despite the passage of time we think that two previous Local Plan inspectors were both right to come out against major development at Princes Parade. The current proposal fails





to comply with policy TM8 in several important respects. We do not think that the master plan leaves the majority of the site open. Any enhancement of the appearance of the canal through the heritage works would not outweigh the harm that would be caused by a development that would have a serious adverse effect on the character and setting of the canal. Finally the policy calls for built development to be essential to recreational or community facilities and to be “small scale, low rise and of a high quality design”. The proposed development cannot be described as either of the first two terms and, since only the leisure centre is detailed, it is not possible to know that the other proposed buildings will be of the required high quality design.

We think that policy TM8 (or an appropriately updated version of this) should continue to inform decision-taking at Princes Parade. Its existing use as open space available to residents and visitors for their enjoyment, including by appreciation of the RMC as a unique military monument, is the most appropriate one. Without question the experience of the site and its heritage could be improved but to build over so much of it would be an irreversible and very harmful action. In place of this, we would urge your Council to consider how an alternative use for the site as public open space might be brought about. In years to come it may become possible to address the harm to the canal of the refuse dump land-raising by its removal but building on top of this not only renders that impossible but results in additional harm.

Based on our assessment of the policy considerations, the impacts indicated by the illustrative master plan and the design for the leisure centre in combination, we would object to a planning application founded on the current proposal.

Next Steps

This concluding advice completes our charged for pre-application initial advice service. I anticipate that once you have had the chance to absorb our advice you will have more questions. Should you require formal pre-application advice this is available free of charge but since it would be binding upon us as to how we would then respond to an actual planning application you would need to be able to send us a wholly complete draft application for our consideration.

Yours sincerely



Peter Kendall
Principal Inspector of Ancient Monuments

Peter.kendall@historicengland.org.uk





Information supplied upon which this pre-application advice is based

Tibbalds – Princes Parade master plan 09.05.17

Illustrative layout
Land uses
Site section A
Site sections B & C

Tibbalds – Princes Parade – Parameter Plans

Application site area
Development zones plan
Land use plan
Access and circulation plan
Maximum no of storeys plan
Maximum height sections

GT3 – Shepway ARC Model Princes Parade – drawings of leisure centre

300-01
300-02
300-03
300-04
300-06
150-01

Lloydbore – extract from LVIA including Heritage England (sic) Views

Pages 104 - 125





Appendix – Detailed comments on visual impacts

View HE1 is that south (seawards) from the top of the stone wall of the redoubt. This is a location with lines of fire both directed eastwards along the coast road but also available over the canal towards the sea. In this view the proposed leisure centre building would be prominent, particularly once inappropriate vegetation is removed and the redoubt better presented, which is one of the proposed heritage benefits of the proposal.

View HE2 was intended to explore the potential inter-visibility of the eastern end of the site with the scheduled Shorncliffe Battery. We do not think that the illustrative photos have adequately captured these potential issues. Effects on setting are not limited to land to which there is public access and the permission for the new houses here intended the top of the battery to be communal space for the residents. From memory I think that the amount of new housing now makes it impossible to appreciate the line of fire between the battery and the RMC. The proposed development may not make this harm worse but viewpoint HE2 illustrates how significant new buildings are harmful in places where openness and lines of sight around and between military monuments are a key part of their significance.

View LVIA 3 represents the experience of approaching the site from the east along the later esplanade from the direction of Sandgate. It represents how the site is experienced now but not how it appeared when the canal was first dug. The proposed development will be prominent in views from this direction as one approaches the site and its presence between the sea and the RMC will prevent an easy appreciation of this key relationship of the canal and the beach.

View HE3 was requested to explore whether there are views between the grade II listed Martello tower No 8 and the end of the RMC. The single frame view is unclear and some accompanying text seems necessary. Is it your suggestion that the proposed development would be too distant to be clearly visible and/or that the intervening topography only permits a view to the golf course part of Princes Parade?

View HE4 is that from the scheduled Martello tower No 9 looking down on the site. It is at ground level as the top of the tower is currently inaccessible but it is the latter view which matters most as that is where the gun of the tower was mounted. Until the proposed removal of inappropriate and unmanaged tree cover around the tower has taken place under the Shorncliffe Garrison project it is difficult to adequately assess this view. Historic postcard views show the tower as visible from within the canal and it has to be assumed that therefore the reverse view was also possible and indeed intentional. There are views obtainable from near the base of the tower down to the east end of the proposal site (as one of the photos shows) and these will become more available as the “back door training area” is brought under positive management as per the conditions of the planning permission granted to Taylor Wimpey. The ability to appreciate the Martello towers and the RMC as a single planned system of defence will be harmed by the proposed





development, but perhaps most harmful will be the disruption of the sequence of sea, beach, open land and then the canal that even now, without the proposed clearance, is currently visible.

View HE5 is a view eastward from the towpath part of the RMC with the golf course representing the historic levels of the former open beach in a way that is not seen at the proposal site as a result of the refuse dump. The change in ground levels at the western end of the site is currently visible but the overall impression is still of undeveloped land. The single frame view shows that the proposed development will be clearly visible and how it will erode the open character of land south of the canal. It also suggests that views to the distant high ground will be interrupted which will be harmful to understanding how the local topography informed the design and position of the RMC.

View HE6 is a view due west along the length of the RMC from where there is a small historic stone wharf. The single frame view demonstrates that the proposed development will be highly visible in this view (and more so once vegetation on the south bank is better managed). Other than the canoe centre containers and the car park there are no existing structures in this view on the seaward side of the canal and, despite the land raising created by the refuse dump, it is very easy to appreciate from here the purpose of the RMC as a barrier. The proposed development will seriously erode the ability to appreciate the canal from this location and hence its historic significance. The planning permission for a new canoe centre will see a new small building set down at canal towpath level and thus it will not be as prominent as the proposed development.





Historic England

Shepway District Council
Planning Policy Team
Civic Centre
Castle Hill Avenue
Folkestone CT20 2QY

Our ref: Seast/Shepway/LP
Your ref:

Date 18 November 2016

By email only

Dear Sir / Madam

Shepway Places and Policies Local Plan Preferred Options

Thank you for your email of 6 October 2016 inviting comments on the above document.



As the Government's adviser on the historic environment Historic England is keen to ensure that the protection of the historic environment is fully taken into account at all stages and levels of the local planning process and welcomes the opportunity to comment upon this key planning document.

Please find attached detailed comments on the content of the document (in the order they appear).

Historic England would strongly advise that the Council's own conservation staff are closely involved throughout the preparation of the Local Plan, as they are often best placed to advise on local historic environment issues and priorities, sources of data and, consideration of the options relating to the historic environment.

These comments are based on the information provided by you at this time and for the avoidance of doubt does not reflect our obligation to advise you on, and potentially object to, any specific development proposal which may subsequently arise from this or later versions of the plan and which may, in our view, have adverse effects on the historic environment.

Yours sincerely



Historic Environment Planning Adviser

Introduction

Development Plan

There are several references in the introductory sections (e.g. paras 3.3 (2) and 3.6) to the requirement to “maintain” the historic environment. Although the sentiment and purpose is undoubtedly correct, this could appear to downplay the requirement of the National Planning Policy Framework (and indeed primary legislation (ref. the Planning (Listed Buildings & Conservation Areas Act) 1990) to actively *preserve and enhance* the historic environment and heritage assets. The wording should be revised to better reflect the legal duties on the Council and the intention of NPPF; for instance paras 9 and 126 require the local plan to provide a positive strategy for the historic environment.

Government Policies and Legislation

Para 3.13 - see the comment above; the draft plan fails to adequately reflect policy in regard to the historic environment.

Evidence Base

Para 3.16 - a heritage strategy is being produced at present for completion in 2017 and it cannot therefore inform this draft as evidence of the needs and requirements of the historic environment. We have not been made aware of any other information or assessments of the heritage of the district that could provide evidence to underpin the policies in the plan.

Some references to how the heritage strategy will be used to help apply the policies seem essential. The heritage strategy is described at para 16.4 but not its relevance to decision taking. At para 6.95 with reference to Dungeness the heritage strategy is listed as an important source of advice for planning applicants but this is I think the only place where it is so referenced.

In Appendix 3 Evidence Base Documents under ‘Historic Environment’ only the 1990 Listed Buildings and Conservation Areas Act is listed; for completeness it should also include the 1979 Act for monuments and archaeology. However, neither of these provides actual evidence of the extent, distribution, nature or condition of the historic environment in Shepway and cannot justifiably be cited as evidence documents in support of the draft plan. The Kent County Historic Environment Record, the National Heritage List for England and the Heritage at Risk Register published by Historic England should be a minimal inclusion but we suspect there are many more appropriate sources of heritage data and information that could be included.

Sustainability Appraisal and Strategic Environmental Assessment

Para 3.19 - Historic England has not been consulted on a SA/SEA for the draft local plan at this stage. However, the earlier issues and Options draft Plan was accompanied by a SA/SEA which the Council, may consider is adequate for the purpose of the current draft plan.

5 Urban Character Area

Policy UA1: Folkestone Town Centre includes the Old Town Conservation Area with its concentration of listed buildings and local heritage assets, and has high archaeological potential. An up to date character appraisal and management plan for the conservation area would be an appropriate tool to both guide development proposals and to support an Action Area Plan (para 5.34) as this would enable a full assessment of the significance of the place and a strategy for its conservation and enhancement to be included as a component of regeneration.

Policy UA7 Rotunda and Marine Parade car parks Lower Sandgate Road – the policy covers the need to protect the setting of nearby listed buildings with the exception of the adjacent Grade II* listed Leas Lift. In view of the need to secure a sustainable future for this heritage asset, direct reference to it and the role it could play in enhancing connections between the seafront and the town centre is a relevant consideration.

UA19 Encombe House, Sandgate – development of this site would inevitably affect the setting of the scheduled Martello Tower No 7 and design and layout of any proposed scheme should seek to minimise the impact on the appreciation of the scheduled monument.

Hythe

As indicated in para 5.133, Hythe is an important historic town as a Cinque Port and then a military town in the 18th and 19th centuries. It was reported upon in the Kent Towns Survey but it has never had the consideration of its known and potential historic significance that it deserves. This is particularly true for archaeological remains. The Shepway heritage strategy is likely to reinforce its potential significance and to recommend more detailed studies of the kind that have been carried out for other Cinque Ports, such as Sandwich, but a reference to better understanding of the town would be appropriate here.

Policy UA20 Hythe Town Centre should include a specific reference to archaeology potential and assessment as part of development proposals (see comments below on wording of archaeological assessments).

Policy UA21 Smiths Medical Campus, Hythe - the firing ranges at Hythe remain in active MOD use and originate with the army presence at Shorncliffe and the founding of the Royal School of Musketry at Hythe. Map regression shows that elements of the ranges once included this site, but the existing buildings mean that any preservation of associated remains might be very low. Archaeological potential is thus also low but the inclusion of the standard wording regarding this is appropriate (but see statement below).

UA25 Princes Parade, Hythe – Historic England is of the view that this site should not be allocated for significant new development in the draft local plan, and that it should remain as largely open green space as per the last Local Plan inquiry and the decision by the Inspector. This may allow for modest development envisaged in the last Local Plan site specific policy for this site.

We object to the inclusion of a site specific policy for Princes Parade allocating it for significant development when we are not agreed that in principle this is a sustainable location for major new buildings based on the likely effect of these on the Royal Military Canal designated heritage asset through its setting.

The draft policy appears to be coached in language that is a justification for a development proposal that Shepway DC has in preparation in its role as the landowner and site promoter. The local plan should objectively provide a framework and guidance about how a sustainable future for the Princes Parade site might be possible taking into account the advice of the NPPF. We have yet to see a detailed scheme proposal for the combination of a new leisure centre, a significant amount of new housing, public open space and other buildings, but based on our knowledge of the site we doubt that this can be achieved without harm to the designated heritage assets. The precise level of any harm will need to be assessed based on

precisely what is proposed, but even if the harm is found to be less than substantial within the terms of the NPPF it cannot be assumed that public benefits will be capable of decisively outweighing any harm, as has been determined in recent case law.

NPPF at para 132 is clear that great weight should be given to the conservation of designated heritage assets, that the significance of these can be harmed through development within their settings, and that any harm to designated heritage assets requires clear and convincing justification. In applying this guidance to a policy for this site the justification for permitting harmful development would have to be established. This would include whether there are alternative solutions that might provide equivalent or similar levels of public benefit but without causing the harm to the heritage asset. As there is an extant permission including for a swimming pool at Nickells Quarry and consideration has been given to other potential sites, including the existing swimming pool site and Hythe Green, we must doubt that the necessity of harmful development at Princes Parade can be established. Issues arising from the timing of implementing any planning permission already granted are not a justification for harmful development in this instance.

The inclusion of an allocation of a significant amount of new housing at Princes Parade is a further concern for us. It would very likely increase the level of harm beyond that likely to arise from a leisure centre alone. If alternative less harmful locations for new housing exist in the district that allows the Council to meet its objectively assessed housing needs then Princes Parade need not be allocated for this purpose at this time. This may particularly be the case if additional capacity for new housing is identified elsewhere; in particular, the recently announced (11 November 2016) government supported proposal for a Garden Settlement at Otterpool Park may provide the scope for meeting (and even exceeding) that need.

We note the comments in the supporting text (para 5.171) about this being a “sustainable” location for this kind of development. Sustainable development is defined in the NPPF at para 7 in which it is noted that this has economic, social and environmental roles. The latter includes specific mention of protecting and enhancing the historic environment; the three dimensions of sustainable development are not mutually exclusive and they should be sought jointly and simultaneously. To fail to do so would misrepresent the purpose of the NPPF.

Under the core planning principles (NPPF 17) there are 12 key topics and one of these is to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. In our opinion sustainability goes beyond such factors as the location of the site close to transport links and existing housing, and for major development at Princes Parade to be shown to be sustainable it must comply with the advice of the NPPF, and hence protect and enhance the designated heritage asset that forms a major feature of the site and its surroundings. We doubt that development on the scale now proposed can achieve this.

This must affect the weight that is given to avoiding harm and it is not a simple balancing exercise as there is the great weight that must be afforded to conservation of designated heritage assets under NPPF 132, and this shifts the balance towards protecting and enhancing the significances of the site. Heritage benefits such as improvements in the condition of the monument itself whilst welcome are unlikely to outweigh the harm, especially as there may be other ways to secure these without harmful development. Whilst accepting that the topography is changed from when the Royal Military Canal was built one’s

experience of the Canal would be fundamentally altered if approached and experienced with buildings, however well designed, replacing the current open space which is intrinsic to the setting of the monument.

6 Romney Marsh Character Area

Policy RM12 Brookland – the grade I church with its unique detached belfry will require particular care for any development within its setting.

7 North Downs Character Area

At para 7.36 the description of archaeology and Lyminge is a bit muddled. I think it is a suggested Saxon royal site as well as an early monastery (the two often go together).

Policy ND7 Former Lymington Airfield – we support the need for an assessment of the non-designated heritage assets associated with many decades of flying use. The grass flying field may have helped preserve earlier archaeological remains. This airfield in WW1 was an aircraft acceptance base, new aircraft arrived by rail at Westenhanger Halt in crates and were moved to Lymington on a narrow gauge railway for assembly and to be flown to the Western Front. The allocated land does not include the known concentrations of aviation structures but there will be some archaeological potential to take into account. Historic England's recently revised guidance note of Military Aviation Heritage may provide a helpful reference.

Policy ND8 Barnstormers Stanford – if the M20 lorry park goes ahead then this allocation is overtaken but the policy reads appropriately in terms of preserving the grade II* windmill.

Policy ND9 Folkestone Racecourse – safeguarding of land for parking is referenced in the policy and this might explain why such a low estimated number of dwellings, i.e. just 11, is thought appropriate on such a large site.

Part 5 of the policy could read better as *“The contribution that setting makes to the significance of Westenhanger castle as a scheduled monument and grade I listed building has been assessed and the proposal preserves or enhances its significance”*.

There is archaeological potential at the site which is not based on the castle e.g. it was a WW1 military camp and one of the wooden huts may still exist. If racing at Folkestone is defunct the buildings of the racecourse will need to be assessed for heritage value; one grandstand dates back to the creation of the course in the early 20th century.

Section 16 Historic Environment - we suggest the following amendments to the wording of this section to better reflect the intention of the NPPF:

At 16.2 we would contend that the historic environment is more than just important to sustainable development, but that it is part of the environmental dimension as one of the three components that the NPPF uses to define sustainable development.

At 16.6 “Napoleonic Infrastructure” is an odd description for the rich defence heritage of this part of Kent. We would suggest something simpler like “historic defences and fortifications”.

Figure 16.1 is selective in the types of heritage assets that it chooses to illustrate. Acoustic mirrors are rare but a particular feature of this district but inclusion of military museums seem odd. There is no reference in the text at 16.6 or Fig 16.1 to scheduled monuments. The key to

Fig 16.1 describes the Royal Military Canal using wrong terminology - it should be *scheduled monument* not national ancient monument.

Policy HE1 is welcome in its intent but could be sharpened in its wording. The policy needs to acknowledge that some heritage assets are worthy of conservation for their significance alone and that many may be incapable of re-use or being made viable. It need not say “protection and conservation” as conservation alone is sufficient (based on the NPPF definition). Rather than refer to “redundant or under used buildings and areas” ‘at risk’ might be a better term, and heritage assets would be more inclusive as some assets will be monuments not buildings or areas.

At para 16.9 why be so selective in quoting paras 126 and 141 in the NPPF? All of S12 of the NPPF is essential to proper consideration of planning and LBC applications. We note the words “starting with” in reference to paras 126 and 141 and the content of Box 10 but could not this entire section be reduced to a commitment to apply the legislation and the available guidance (NPPF, PPG and DCMS policy statement and local sources e.g. the heritage strategy) when determining applications. The Council needs to acknowledge that the NPPF policies they have chosen to quote apply equally to scheduled monuments and parks and gardens and not just out listed buildings or Conservation Areas.

For para 16.10 the reference to the Kent Historic Towns Survey must be addressed. This covered just one aspect of the archaeological significance of the district, i.e. the urban component. There are numerous other strands to the archaeological significance of Shepway which the heritage strategy will define and explain e.g. coastal, rural, defence related or place specific such as Dungeness. The towns’ reports are not up to date and I think reference to them could be replaced by “in areas of known or suspected archaeological potential as identified using available information, including the Kent Historic Environment Record, there will be a reasonable.”. As the text currently reads it suggests that developers may only be required to consider archaeology in places covered by the towns’ reporting.

The reference to “large scale developments” in the final sentence is rather loose. What makes a development “large scale”; in some locations even modest development could create issues? If Shepway DC is trying to suggest that very large developments may require archaeological assessment even if no confirmed archaeological remains are known, we would support this, but there must be grounds for seeking assessment/evaluation based on judgement of the potential for such remains not just size of site.

Para 16.11 is also a bit odd. Discovery of unexpected archaeological remains during development is always a difficult situation. We support the statement about taking specialist advice but think the possible consequences of this need to allow for actions to conserve the remains in situ in addition to those for recording and advancing understanding of their significance based on excavation. It may be more cost effective for a developer to amend their proposal to avoid archaeological costs and for nationally important but undesignated archaeology preservation should be the first preference.

Despite the accompanying text being a bit imprecise in parts, we agree that the actual archaeological policy HE2 is acceptable.

Para 16.12 this needs to be amending to cover the instance of undesignated archaeological assets and the advice at NPPF para 139 that those of demonstrable equal significance should

be treated as per the policies for designated heritage assets. An addition to para 16.13 might cover this.

Other Matters

Archaeological Assessment

Throughout the draft plan there is a standard wording for sites with archaeological potential and which require some form of assessment before proposed development can be considered. Shepway DC proposes - *The archaeological potential of the land is properly considered and measures agreed to monitor and respond to any finds of interest.*

We suggest a more nuanced version is needed to allow for a more active response to archaeological issues, including both preservation (safeguarding) and recording by excavation. I suggest something along the lines of - *The effect of the development upon the significance of any archaeological remains is properly considered and measures to either safeguard these or, if appropriate, to record and understand them are agreed.*

Otterpool Park Garden Settlement

The proposal for a new garden settlement of up to 12,000 new homes at Otterpool Park, promoted by Shepway District Council, has recently been announced and received development funding from government. This is an important issue for the draft local plan in general and for housing targets and site allocations in particular, some of which would lie within the proposed area for the new settlement e.g. Folkestone Racecourse and Lympe Airfield. Although the project is some way away from being a firm proposal it is likely that a scheme will be developed within the timeframe of the current draft plan, and Shepway DC should clarify how they propose to take account of this major project and the impacts it may have on the draft plan.