



Environment, Planning & Enforcement

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31 October 2017

Your Ref: Y17/1042/SH
Our Ref: SH 17 1042 LE01

SENT BY EMAIL

Mr Robert Allan
Planning and Building Control
Shepway District Council
Civic Centre
Castle Hill Avenue
FOLKESTONE
CT20 2QY

Re: Y17/1042/SH

Location: Princes Parade Promenade, Princes Parade, Hythe, Kent

Proposal: Hybrid application for subsequent consent accompanied by an Environmental Statement for the development of land at Princes Parade, comprising an outline application (with all matters reserved) for up to 150 residential dwellings (Use Class C3), up to 1,270sqm of commercial uses including hotel use (Use Class C1), retail uses (Use Class A1) and / or restaurant/cafe uses (Use Class A3); hard and soft landscaped open spaces, including childrens play facilities, surface parking for vehicles and bicycles, alterations to existing vehicular and pedestrian access and highway layout within and around the site, site levelling and groundworks, and all necessary supporting infrastructure and services. Full application for a 2,961sqm leisure centre (Use Class D2), including associated parking, open spaces and childrens play facility

Dear Mr Allan

Thank you for your letter consulting us on the above planning application.

Summary

Our advice is primarily concerned with two aspects of the scheme – 1) its impact on the setting of nearby heritage assets, most notably the scheduled monument of the Royal Military Canal which adjoins the application site to the north; and 2) any direct impacts on buried archaeological remains.

The impact of the scheme on the setting of the Royal Military Canal is a significant issue. The Royal Military Canal is a unique heritage asset of national importance in its own right. It is also significant as a key component in a wider group of broadly contemporary fortifications that functioned together as a complex and co-ordinated system of strategic defence. We feel that the development proposals set out within this application would result in great harm to the significance of the scheduled Royal Military Canal by change to its setting.

The NPPF requires great weight to be given to the conservation of the Royal Military Canal as a heritage asset of the highest importance. In our opinion the great harm that would be caused to the eastern end of the Royal Military Canal would be contrary to the advice and aims of the NPPF. We note that the applicant has proposed a number of heritage benefits that could be delivered. We would advise that even if these benefits were delivered in full they would do little to balance against the much greater harm of the proposed development. Furthermore we suggest that the proposed heritage benefits are not 'directly related to the development' and thus should not be a factor in weighing the balance of whether or not planning permission should be granted.

We therefore advise that the harm to the historic environment provides sufficiently strong enough grounds for the application to be refused.

Archaeological and historical background

The proposed development site is located on a low lying strip of land sandwiched between the coast and the higher ground of the Hythe Escarpment (part of the Greensand Ridge). To the west the Greensand Ridge loops inland, forming a dramatic backdrop to the low-lying landscape of the Romney and Walland Marshes, whilst to the east the scarp slope extends as an ever steepening cliff down to the sea. The underlying geology of the site comprises mudstone of the Weald Clay Formation, capped by extensive deposits of Storm Beach Gravel.

The low-lying gravel beaches that extend from the development site across the Hythe embayment and down to Dungeness have long been recognised as a potential site where an invading army might seek to land troops. This situation came to a head in the late eighteenth century when the deposition of Louis XVI of France sent shockwaves across the whole of Europe and ultimately saw war spread across Europe and the overseas colonies. Throughout this period Britain was engaged almost continuously in wars with France, ending ultimately with the defeat of Napoleon.

At the start of this period Britain was primarily a maritime nation, with only a small standing army. Naval supremacy was Britain's traditional first line of defence; by controlling the channel and blockading the French fleet in its ports the Admiralty was confident that it could protect Britain from invasion. In Europe however France's land armies were unstoppable, fighting with revolutionary zeal and making use of new tactics. French military successes on the continent, combined with failed invasion attempts on Ireland in 1796 and 1798 led to a period of invasion fears and ultimately

to a massive programme of new defensive works along Britain's coast. Vast sums were spent on new fortifications, and of particular note was the construction of the Royal Military Canal which ran for some 28 miles from Seabrook to Cliff End near Hastings. The proposed development site is located on the sea-ward side at the canal's very eastern end.

The canal was principally intended to present a sufficient barrier to significantly hamper, delay and isolate any attacking force so that defensive forces could be mustered in-land. The man-made defences consisted not only of the canal itself, but also an adjacent embankment made from the up-cast material from the ditch. The embankment formed a parapet on the landward side, behind which troops could be positioned, alongside the parapet there was a military road that allowed for the rapid movement of troops along the canal's length. To the seaward side there was a further towpath. Sections of the original canal design featured a back and a front balancing drain. The canal was cleverly designed, being built in a series of angled sections, each terminating in a flank with space for a gun, thus allowing enfilading fire along the length of the canal, if the enemy attempted to cross it.

The eastern (Seabrook) end of the canal, where the sluices which controlled the water levels in the canal emptied into the sea was a particularly vulnerable location. Additional defensive works protected the sluices and prevented any enemy troops circumnavigating the eastern end of the canal. These included Shorncliffe Battery (which lies a short distance to the north-west and is scheduled in its own right), Shorncliffe Redoubt (also scheduled and positioned on the high ground atop Hospital Hill) and Martello Tower No 8 (a listed building) and Martello Tower No 9 (dual designated as a listed building and a scheduled monument) which lie on the high ground adjacent to the redoubt.

By the time the canal was complete the threat of invasion from Napoleonic France had waned. In order to recoup some of the costs of construction, the government opened it up for navigation. Originally used for the transport of goods it was also, from 1810, opened to the public with a regular barge service running between Hythe and Rye. The canal also played an important role in the draining and management of water levels on Romney Marsh. Its importance as a defensive line was recognised in World War 2 when it was redefended through the addition of numerous pillboxes along the canal's length. Barbed-wire entanglements surrounded the pillboxes, while bridges were either demolished or prepared for demolition. At each bridge road-blocks were also set, with minefields surrounding them.

Significance of the Royal Military Canal and associated defences

The Royal Military Canal is a nationally important and unique heritage asset, with the entire length of the canal being designated (in sections) as a scheduled monument. At its Seabrook end it forms part of a complex of inter-related defences which through the use of overlapping fields of fire, along with careful siting responding to and making use of the natural topography, formed a powerful and integrated defensive system.

As a group these assets excellently illustrate the British response to the very real threat of invasion that was ever present until Nelson's victory at Trafalgar in 1805 and the formation of the Third Coalition (comprising Britain, Russia, Austria and Naples) which focussed Napoleon's attentions back to mainland Europe. The fortifications also illustrate changes in military thinking and priorities, with a clear contrast between the lightweight batteries and earthwork redoubts of the Revolutionary Wars and the subsequent hardened defences erected during the Napoleonic Wars. The defences are also associated with a number of important military engineers and political figures.

The setting of heritage assets

The defensive features in the vicinity of the development site have been strategically located to take advantage of the area's natural topography, providing a co-ordinated and layered system of defence. The contribution that setting makes to the significance of defensive sites is of heightened importance, due to their careful positioning in the landscape, making use of topography and designed (and often over-lapping) 'fields of fire'.

The NPPF describes the setting of a heritage asset as: ***The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.***

The Planning Practice Guidance further explains that whilst setting is often expressed by reference to visual considerations, views only form one way in which an asset is experienced. Other factors such as land-use in the vicinity and our understanding of the historic relationship between places all contribute to an asset's setting. The PPG also explicitly states that the contribution that setting makes to the significance of the heritage asset does not depend on there being public rights or an ability to access or experience that setting.

Shorncliffe Redoubt and Martello Towers 8 & 9 are sited on the crest of a steeply sloping ridge of high ground that forms the backdrop to the site. Although now wooded this tree growth is of relatively recent date and originally the redoubt and towers would have benefitted from extensive and sweeping views overlooking Hythe Bay and the shingle foreshore, including across the application site.

Shorncliffe Battery is located at the foot of the scarp slope of Hospital Hill, positioned so as to provide coastal defence, with fields of fire extending across the shingle beach. It is acknowledged that modern development has compromised the setting of the battery, with recent development having obscured some of the key visual links between the battery and the application site.

The Royal Military Canal is the nearest designated defensive asset to the proposed development. It was deliberately sited on the low-lying ground as a physical barrier to any troops landing on the beaches here. Critical to the functioning of the canal and

battery was the openness between the canal and the sea so as to provide an open 'field of fire', which the defensive structures would command. This open character is critical to our understanding and appreciation of the canal as a defensive barrier.

Experience of the assets

The broad topography of the area is still readily apparent and easily appreciated and it is still possible to understand how the assets have been sited so as to articulate with each other and their landscape setting. In particular the land between the canal and the sea retains a general sense of openness (being undeveloped) and this open character can be readily appreciated from a number of vantage points within and around the monument. Modern development has generally occurred to the interior (landward side of the canal), whereas the open space between the canal and the beach remains broadly intact allowing the defensive functioning of the assets to be understood. This openness was fundamental to the design of the defences.

The applicant notes that some of these visual links have been eroded, including through land-raising at the application site. Setting and the way that the canal is experienced however should not be considered solely in terms of single views. Instead, we suggest that it is possible to understand and appreciate that there is a broad swathe of open and undeveloped land between the canal and the sea without solely relying on the direct view from one to the other. This sense of openness can be readily experienced and appreciated when visiting the site – it is not necessary to be able to see the sea from the canal to understand that the application site is currently undeveloped. In longer views, particularly from elevated positions to the rear of the canal this sense of openness becomes even more apparent, even in glimpsed views.

The openness between the canal and the coast is especially important in telling the story of the canal, its purpose and its specific design. This is because the canal was designed to protect against invasion from the sea. The difference between the developed character on the landward side of the canal and the undeveloped land on the seaward side helps to reinforce the sense of understanding of the canal as a barrier. As such the setting of the canal, particularly on its seaward side makes a substantial contribution to its significance and how the asset is experienced.

Impact of the proposals

Within the application documentation the applicant has looked to describe the effect of the development on the setting of the canal through a series of fixed views. Whilst the reasoning behind this approach is appreciated, we would strongly suggest that an asset's setting shouldn't be considered solely in terms of individual views, but is an expression of how the asset is understood and experienced 'in the round'. Views shouldn't be assessed and considered in isolation, but in combination. The significance that an asset derives from its setting is generated through a range of views, environmental factors and mental links that are understood together; setting is the sum of the sense of understanding that is generated through experiencing the place.

It is acknowledged that land-raising within the application site has affected visual links from the canal to the sea, but it is still possible to understand and appreciate the sense of openness that the application site affords and why this remains of great importance to understanding the defensive function of the canal.

The application documentation suggests that the 'merit' that should be afforded to some views in decision taking is lessened due to the fact that they are not presently easily accessed. As noted above however the PPG explains that the contribution that setting makes to the significance of the heritage asset does not depend on there being public rights or an ability to access or experience that setting.

In our view the site makes a positive and significant contribution to the setting of the scheduled monument of the Royal Military Canal and the asset derives considerable significance from this setting. As such the change from undeveloped land to a character that is defined by development will be harmful to our understanding of the function of the canal and will therefore be harmful to the significance of the designated heritage asset. As such **our advice is that the development proposals will cause substantial harm to the setting of the Royal Military Canal**, will diminish the sense of the canal being a barrier and reduce the ability to understand the defensive function of the asset.

Whilst the development will result in substantial harm to the setting of the Royal Military Canal, it is suggested that overall the development will result in less than substantial harm to the significance of the heritage asset. This is because the physical fabric of the canal will be unaffected. Nevertheless, given how important the setting of the canal is to understanding its function it is suggested that **the harm caused to the canal will still be great**.

We are therefore firmly of the opinion that the level of harm that the scheme would cause is significantly greater than the 'limited to moderate harm' that the applicant suggests.

Policy

The NPPF sets out the Government's planning policies for England. The conservation of 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 is one of the twelve core planning principles enshrined in the NPPF. The NPPF explains that heritage assets are irreplaceable and Paragraph 132 notes that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. No other planning consideration is given more weight. It goes on to note that the more important the asset, the greater the weight should be. Scheduled monuments, such as the Royal Military Canal are heritage assets "of the highest significance".

Paragraph 132 also describes how an asset can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Paragraphs 133 and 134 of the NPPF then explain the decision making process for determining applications that cause substantial harm (133) or less than substantial harm (134) to

the significance of a designated heritage asset. As described above we feel that whilst the development will cause very great harm to the setting of the Royal military Canal, the overall level of harm is considered to be less than substantial. It should be noted that substantial harm is a very high test and even harm that is considered to be less than substantial could still be great. As such a conclusion of less than substantial harm does not in turn imply a less than substantial reason for refusal.

Paragraph 134 of the NPPF describes how the harm to the designated heritage asset should be weighed against the public benefits of the proposal. In doing so the great weight that should be afforded to heritage assets must be remembered. In other words clear and convincing justification that a proposal will result in substantial public benefits which could not be achieved elsewhere or through other means must be demonstrated if the core principal of conserving heritage assets is to be set aside. It is for your council to assess the overall package of public benefits that would arise from the scheme (public benefits would be those that fulfil the objectives of sustainable development, provided these benefits are for the wider community).

The provision of enhanced leisure facilities at the site is clearly an important benefit, but the application acknowledges that these benefits could be delivered at sites other than Princes Parade. Consideration is given in the application to possible alternative sites, including at Nickolls Quarry. In our view however the Design & Access Statement does not sufficiently explain why Princes Parade is the preferred or only option. In favouring Princes Parade the site selection process does not appear to have taken account of the great weight that should be placed on the conservation of the designated canal that the NPPF requires.

The applicant proposes a number of heritage benefits that they would seek to deliver should permission be granted. These heritage benefits include a package of measures focused around the restoration, repair, management and interpretation of the canal. The measures proposed would bring some heritage benefits, but even if these benefits were delivered in full they would do little to balance against the much greater harm of the proposed development. Furthermore we would advise that the need for these proposed benefits does not arise as a direct result of the proposed development. The heritage benefits proposed could be delivered independently of the development and therefore in our view do not pass the 'test' of being 'directly related to the development'.

Other proposed benefits, such as the contribution that the site would make to the district's housing needs would need to be objectively considered in the context of the emerging local plan and partial view review of the Core Strategy. As the applicant acknowledges that the housing contribution that the site would make is small relative to Shepway's overall needs. In our opinion this small contribution would result in disproportionately large harm to adjacent designated heritage assets. We remain of the opinion that alternative sites for development housing should be preferred on heritage grounds.

Impact on buried archaeological remains

The application includes only limited information on the potential effect of the scheme on buried archaeological remains. This is because buried archaeology was not considered to be a major factor or constraint and therefore was therefore largely scoped out of the environmental assessment process. Nevertheless the applicant has identified that the proposed development site may contain buried archaeological remains associated with the Royal Military Canal. These include features evident on the 1874 Ordnance Survey map of the site.

Although the applicant has referred to historic Ordnance Survey maps in their assessment they do not appear to have consulted the various military maps and plans available through The National Archives and other sources. We would have expected the assessment to have included a comprehensive map regression exercise to demonstrate the development and evolution of the Royal Military Canal – particular attention should have been paid to contemporary military maps and plans which would have helped explain the military and defensive thinking of the day. Undertaking such map regression works may have helped clarify the range of potential buried archaeology that may be present at the site. Such information would also have been invaluable to the applicant in understanding the military thinking and design behind the monument and should be undertaken as a first step should the application progress.

The applicant notes that past impacts at the site, including possible gravel extraction and subsequent land-raising will have had an impact on the survival of buried archaeology and we broadly accept this conclusion. As is acknowledged in the application documentation some potential for buried archaeological remains associated with the canal does remain. The applicant suggests that issues relating to buried archaeology could be addressed following the granting of planning consent.

Policy

The site is identified as having potential to contain remains of archaeological interest as defined in the NPPF. These remains are not designated, but are associated with the scheduled Royal Military Canal. Paragraph 135 notes that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. Paragraph 141 of the NPPF describes how applicants should record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. The investigation and recording of remains of archaeological interest would be one way to achieve this aim.

In this instance the applicant has suggested that the direct impacts of the scheme on buried archaeological remains could be addressed through mitigation measures secured as part of any planning consent. We are satisfied with such an approach and would suggest that such mitigation measures could be secured by condition. The following covers what would be required:

AR1 *No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.*

Reason: To ensure that features of archaeological interest are properly examined and recorded.

And

AR2 *No development shall take place until details of foundations designs and any other proposals involving below ground excavation have been submitted to and approved by the Local Planning Authority. Development shall be carried out in accordance with the approved details.*

Reason : To ensure that due regard is had to the preservation in situ of important archaeological remains.

Conclusion and recommendations

In our opinion the proposed development will result in substantial harm to the setting of the scheduled monument of the Royal Military Canal. Our assessment is that the level of harm would be of greater magnitude than that assessed by the applicant. In our view the proposed development would result in great harm to the significance of the scheduled Royal Military Canal by change to its setting.

In terms of the heritage benefits put forward we would advise that these would do little to balance the much greater harm of the proposed development. We also feel that the proposed benefits are not 'directly related to the development'.

It is for your council to weigh the harm that the scheme will cause against the overall package of benefits. We would note that this should not be a simple balancing exercise and would draw your attention to the great weight that the NPPF places on the conservation of the Royal Military Canal as a designated asset of the highest significance.

We therefore advise that in this instance the harm to the historic environment would provide sufficiently strong grounds for the application to be refused.

I trust that the above comments are helpful and would be pleased to discuss further if required.

Yours sincerely

Ben Found

Senior Archaeological Officer
Heritage Conservation

Cc

Peter Kendall, Principal Inspector of Ancient Monuments, Historic England