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From: Peter.kendall@HistoricEngland.org.uk
Sent: 13 April 2018 18:26
To: Planning
Cc: Andy.Brown@HistoricEngland.org.uk
Subject: Historic England advice on Application no(s) Y17/1042/SH
Attachments: Y171042SH_HERef_P00666110_L313741.doc

Dear Mr Allan,

Please find attached our advice on the following site -

Princes Parade Promenade, Princes Parade, Hythe, Kent Application No(s):Y17/1042/SH

This represents our further advice in response to the additional information provided with your consultation letter of 21st March 2018 and a subsequent email of 11th April..

You will see that we do not think this information addresses our existing objection to the granting of planning permission and so this must stand.

An updated viability report was sent to us by your email of 11th April. We have not subjected the original or amended financial reports to detailed scrutiny by an independent specialist. This is because notwithstanding whether use of Princes Parade might have financial advantages for your Council, major development here can only be considered sustainable and therefore NPPF compliant if it does not cause serious harm to a nationally important designated heritage asset. Since the proposed development would do that level of harm through changes to the contribution that setting makes to appreciation of the significance of the scheduled Royal Military Canal and other associated scheduled monuments we think that the level of harm is too high and unjustified.

I am now away for one week but on my return I shall be available to answer any questions. In my absence our Planning Director, Andy Brown, is aware of the current situation and this response.

Thank you

Yours sincerely,

Peter Kendall
Principal Inspector of Ancient Monuments
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Our ref: P00666110

13 April 2018

Dear Mr Allan

**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 21st March 2018 regarding further information on the above application for planning permission. On the basis of this information and the content of Tibbalds letter to you of 19th March, we offer the following advice to assist your authority in determining the application.

Summary

We sustain our objection to this proposed development. Despite the additional information now provided in response to our letter of 26th October 2017, we think that the proposal continues to fail to comply with the requirements of the NPPF and that the level of unjustified harm to the historic environment is so serious that it should not be approved.

Historic England Advice

Our letter of 26th October 2017 set out our objection to the proposed development and I do not propose to repeat all the reasons for this here. I think the issues for which further information and comments have been supplied can be addressed under the following three sub-headings.

1. Heritage Assessment

Appendices 01 & 02 relate to these issues and it should not surprise you to learn that we remain in disagreement with the assessment of the level of harm that the proposals would cause based on the contribution that the setting of the scheduled Royal Military Canal makes to its significance as a nationally important monument.

There is agreement that there will be harm to the significance of the canal (see



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conclusion of Appendix 02) but there is no agreement about the severity of that harm. The applicant states that the setting has already been so compromised by existing modern development that the degree of change required for this large additional development should now also be permitted. We disagree and think that the surrounds of the site have not passed a tipping point beyond which it is no longer possible to understand the design intentions of the canal as a fortification and its strategic relationships to other contemporary military monuments.

Our published guidance - Good Practice Advice Note 3 (second edition) - says under cumulative change that

Where the significance of a heritage asset has been compromised in the past by unsympathetic development affecting its setting, to accord with the NPPF policies consideration still needs to be given to whether additional change will further detract from, or can enhance the significance of the asset. Negative change could include severing the last link between an asset and its original setting...

Should the proposed development be approved we think that a tipping point would be exceeded as a change in the ability to appreciate the significance of the monuments and for this reason we consider that the level of harm that would be caused is serious.

We do not dispute that there is a spectrum for levels of harm lying below those which would amount to *substantial harm* as allowed for in the NPPF (and PPG) but we think that the harm to be caused here is at the high end. On this basis we dispute that development can be considered as *sustainable* (NPPF para 7) or that even if it was to be so, that the *great weight* that must be given to the conservation of designated heritage assets (NPPF para 132) can be outweighed by the public benefits offered. We do not think that the clear and convincing justification for the harm to be caused has been provided and we note that the more important the asset, the greater the weight to be given to its conservation should be (both also in NPPF paragraph 132). Scheduled monuments are by definition nationally important heritage assets and thus a designation of the highest order.

We think that the assessments of harm as provided by the applicant focuses too heavily on just the visual aspects of setting and not enough on how the significance of the heritage asset is currently appreciated. The role of the canal as a division between developed and undeveloped areas is essential to an understanding of its conception as a fortified barrier. Although much has changed since the early 19th century, the fundamental components of the beach and open land before you encounter the canal remain. This experience would be badly compromised by major development seaward of the monument, even should this include landscaped open areas.

We do not agree with the analysis of views from within some parts of the scheduled monument or from the associated other scheduled monuments which combined to



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create a defensive system. The proposed development will feature large in views westwards along the line of the canal, such as that from the historic wharf at its seaward end. The new leisure centre will be prominent in views from the stone redoubt looking seaward, which is a view equivalent to a historic line of fire shown on 19th century plans. Where the site adjoins the golf course the effect of land-raising is no longer present and the seaward side of the canal here equates more closely with the historic arrangement. The ability to appreciate the monument is enhanced by this. When walking by the canal along the tow path which lies adjacent to the golf course the proposed development will be visible in views eastwards and it will harm the legibility of the canal as a barrier to an invader arriving from the sea. We do not think that the assessment of views from the scheduled Martello tower No 9 is correct. Its current wooded surrounds and lack of access to its top are products of its present day abandonment and should not be taken to be the appropriate setting for the heritage asset in the past nor its optimal condition for the future. From this elevated position and with damaging trees removed we think that the canal will appear as a strong linear feature and with a meaningful distinction between a built-up north side and a largely un-developed south side. Access to the top of Martello No 9 to carry out an appropriate assessment of views should be considered and we would be pleased to try to facilitate this via its owner.

2. Heritage Benefits

The applicants disagree with our previous advice re public benefits. We agree that improvements to the condition of the scheduled monument and its interpretation would be welcome but we cannot accept that the proposed development is the only way that such public benefits can be implemented. We understand that the “Heritage Works” are estimated at only £120,000 and it seems to us entirely disproportionate that development of the scale now proposed might be used as justification to achieve such expenditure. We think that expenditure of this kind should be within the scope of the local authority (even allowing for the present squeeze on public resources), including with some potential for grant funding. Had the improvements secured through the 2004 lottery grant been maintained the need for current funding would be much lower. We accept that heritage benefits are a form of public benefit but we think that you can place very little weight on the proposed development as the justification for these. It would be perverse to secure such improvements as a result of development that would so seriously harm the same monument in other ways.

3. Viability Cost Appraisal Report

We will respect the in-confidence nature of the information supplied to us as appendix 03 (amended version April 2018). We have not subjected the report to independent scrutiny in the same way that we would for an Enabling Development case (under NPPF 140) needed to save a seriously at risk heritage asset. Enabling Development is only referenced in the NPPF in relation to the historic environment and development to



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secure the conservation of a heritage asset. We do not think that the principles which underpin such development can be applied in this instance. A guiding principle, when such development which would not normally be permitted based on planning policies might nevertheless be allowed because of the public benefits it would bring, is that the level of harm must not be too great. The consultation draft of our Good Practice Note No 4 on the subject of Enabling Development says at para 10 that

Ideally enabling development would not harm the heritage asset it is created to conserve. In some circumstances it may be necessary to accept some harm if there is no reasonable alternative means of delivering or designing the scheme with less or no harm. Clearly there could be a tipping point at which the harm to the heritage asset's significance is so great as to make the exercise of saving it self-defeating. It might then be better to accept the risk of further decay or loss until circumstances change.

Where a proposal is not compliant with national or local planning policies such that public benefits can only be provided at the expense of serious compromise of other public interests then the development cannot be considered sustainable and it should not be permitted.

In the appendix 03 report the cost to your Council of delivering a new leisure centre at Nickolls Quarry is compared with the preferred option of use of Princes Parade. We note the significant disparity in costs and that the Princes Parade option is identified as costing less overall because of the considerable receipts that could be obtained from residential development on council owned land. Despite the obvious appeal to your Council of obtaining income from housing development, we think that because of the serious harm it would cause to a nationally important designated heritage asset the proposed development does not represent sustainable development. On this basis we do not accept the principle that the proposed development, including the residential components which increase the overall level of harm, should be allowed. It has not been shown that the income that residential development at Princes Parade might deliver cannot be achieved through development of other land in the ownership of your Council for similar purposes with less harmful effects.

Even if the residential elements were to be omitted from the development we think that the harm to be caused by the leisure centre alone would remain and be sufficiently serious as to lead us not to support such an outcome. There may be ways to reduce such harm through the design and positioning of a new leisure centre building e.g. by setting it into the ground but we cannot support the current proposal for a prominent leisure centre building and a substantial amount of residential development. We note the statement that the design is intended to produce a character of buildings surrounded by significant landscaped areas to preserve some of the present open character of the land south of the canal. We think that the cumulative effect of all the proposed new buildings would be to very substantially change the open character of that land and by this the contribution that it makes to the significance of the Royal



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Military Canal. For this principal reason we hold to the view as communicated to your Council over many years that this is not a suitable location for major development.

When considering the options we note that remediation costs of c £2.9 M for Princes Parade have been identified but we cannot see where it has been demonstrated that such costs must be incurred, whether or not the site is to be developed. Is this for example a legal requirement imposed by the Environment Agency? Access by the public to Princes Parade is not controlled at present and so I hope you can appreciate why we now wish to understand whether your Council is under a notice that requires it to address contamination issues arising from the past use as a refuse dump or whether it is choosing to act voluntarily. If the status quo can be maintained then the cost of any remediation may not be incurred

Recommendation

Historic England objects to the application on heritage grounds.

We consider that the application remains in contradiction of the requirements of the NPPF and in particular paragraph numbers 129,132 and 134. On this basis we sustain our objection to the granting of planning permission on heritage grounds.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires your Council to determine planning applications in accordance with the development plan unless material considerations indicate otherwise. You will be aware that we have raised objection to the proposed site allocation at Princes Parade as part of the draft Places and Policies Local Plan. We now expect that we will be asked for our further views as part of examination of the draft Plan by a Planning Inspector and until this matter is resolved we consider that it is the saved policies from the previous 2006 Plan that are most applicable to a decision about this planning application. This proposal does not in our view meet the requirements of the 2006 Plan.

We continue to be available to provide any clarification of our views and to continue to discuss the proposals but this does not appear to be a proposal about which we are ever likely to agree. We would welcome the opportunity to address your Council should you now move to decide this application and we reserve the right to make further representations to the National Planning Casework Unit should this proposal be referred to it with a recommendation for its approval in its current form.

Your authority should take these representations into account in determining the application. If you propose to determine the application in its current form, please inform us of the date of the committee and send us a copy of your report at the earliest opportunity.

Please contact me if we can be of further assistance.



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Yours sincerely



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