

PROPOSED DEVELOPMENT AT PRINCES PARADE, Nr HYTHE, KENT Issues for the Royal Military Canal as a scheduled monument.

The Significance of the RMC as a designated heritage asset (scheduled monument)

For its entire length from Seabrook to Cliffs End (East Sussex), some 28 miles, the RMC is a scheduled monument and thus by definition of national importance. It is unique and should be understood as a fortification and not simply as a canal. It formed a water filled obstacle to invasion and was designed for active use by defending troops. It thus was sited so that it could command the land immediately associated with it in terms of musket and artillery fire. Key components include an earth rampart on its northern side and the way that the alignment of the canal is staggered so as to create positions for field artillery that could fire along lengths of the water. The RMC formed part of a multi layered system of defence that was developed in the late 18th and early 19th centuries to resist invasion by France and it must be considered alongside the contemporary military installations of Martello towers, batteries, redoubts and barracks.

The RMC has historic illustrative values to demonstrate a major period in British history and the response made then to the fear of invasion. It illustrates a unique approach to the design of a fortification as a long linear water filled obstacle but also contemporary military theory for batteries and gun towers. The canal has historic associations with pre-eminent military and civil engineers of the period e.g. Sir John Rennie and William Twiss RE. The RMC has a strong design quality that provides it with an aesthetic value derived from its sense of a deliberate barrier separating areas of land. In an area that has seen substantial recent development the land associated with the RMC provides green open space and the open character is both a part of its deliberate design and how it can be appreciated and understood. The RMC is something unique to this part of the SE and is largely located in Shepway DC where it is promoted as part of the district's identity and tourism offer. The RMC has communal value for the many residents and visitors who use it, some of who appreciate its historic purpose whilst others enjoy it as public open space available for leisure purposes.

The RMC at Seabrook

A map of the scheduled area of the RMC at Seabrook is attached. Here the canal made connection to the sea below the large military camp at Shorncliffe. This location was considered particularly vulnerable to attack by an enemy that might have landed nearer Sandgate and sought to get behind the RMC. In response the seaward end of the canal was heavily defended as per the attached map that shows how the defensive elements are all scheduled as monuments. On the heights there were the Martello towers and Shorncliffe redoubt and at beach level there was the large masonry gun battery (Shorncliffe battery). This was connected by a masonry wall to a much smaller still extant stone battery that commanded the end of the canal proper. The

defensive scheme at Seabrook appears not to have been completed but the attached map shows how it appeared by the end of the Napoleonic wars. The attached early 20th century photo shows the end of the canal before most of the very major changes had yet to take place and gives a good idea of how the canal was designed to function in relation to land south of it.

Today there has been very major change around the RMC scheduled monument at Seabrook. The coast road and seawall – Princes Parade – has been constructed. Major residential development has taken place, including up the escarpment and above Shorncliffe battery. Use of the land between the end of the canal and the sea as a rubbish dump has resulted in significant raised ground levels and a changed relationship of this land to the canal. Standing on the northern side of the canal it is no longer possible to have the same views seaward as a defender of the canal was intended to have. The golf course to the west of the proposed development site provides a better indication of the intended relationship between the canal, open land and the sea. There are however no major new buildings between the canal and the sea until the Imperial Hotel west of the golf course is reached.

The proposed development is not yet designed but is understood to comprise a swimming pool and leisure centre, a relocated primary school, 36 single houses for sale and dedication of the remaining open space as parkland, intended to open up the setting of the canal.

The statutory position, NPPF and other advice

Unless works are proposed within the area of the scheduled monument it is planning permission and not scheduled monument consent under the 1979 Act that will be required for development. Should works affect the scheduled monument then consent will be required and English Heritage will be the statutory adviser to the Secretary of State at DCMS as to whether this should be given. DCMS has issued a statement (October 2013) about how scheduled monuments should be considered. This is consistent with the NPPF and explains that the significance of scheduled monuments may be affected by changes in their setting but that works impacting upon that setting but not the monument itself do not require consent. They may require planning permission and English Heritage will be a statutory consultee for any planning application. We will offer advice to Shepway DC and also, given the ownership of the land by the local authority, potentially to DCLG.

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). 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. No other planning concern is given a greater sense of importance in the NPPF. The more important the asset the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset **or by development within its setting** (paras 129 and 132). As heritage assets are irreplaceable, **any harm or loss**

should require clear and convincing justification (para 132). The onus is therefore on local planning authorities to rigorously test the necessity of any harmful works.

Local planning authorities should also aim to achieve sustainable development, seeking economic, social and environmental gains jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions (para 8). Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment (para 9). Authorities should therefore seek to improve proposals so that they avoid or minimise harm to the significance of designated heritage assets. They should also look for opportunities for new development within the setting of heritage assets to enhance or better reveal their significance (para 137). Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

If a proposal cannot be amended to avoid all harm, then if the proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use (para 132). Where a proposed development would lead to **substantial harm** to or total loss of significance, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is **necessary** to achieve substantial public benefits that outweigh that harm or loss, or all the tests at para 133 of NPPG apply.

Substantial harm to or loss of a scheduled monument, including through change to its setting, should be **wholly exceptional** (para 132).

The issue of setting is likely to be central to how proposed development is considered. NPPF defines 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.

Guidance about implementation of NPPF advice is provided by the online Planning Policy Guidance - <http://planningguidance.planningportal.gov.uk/blog/guidance/conserving-and-enhancing-the-historic-environment/>

This includes advice about how to consider issues of setting.

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. Setting is the surroundings in which an asset is experienced, and may therefore be more extensive than its curtilage. All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not. The extent and importance of setting is often expressed by

reference to visual considerations. Although views of or from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each. 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. This will vary over time and according to circumstance. When assessing any application for development which may affect the setting of a heritage asset, local planning authorities may need to consider the implications of cumulative change. They may also need to consider the fact that developments which materially detract from the asset's significance may also damage its economic viability now, or in the future, thereby threatening its ongoing conservation.

English Heritage also publishes its own guidance entitled *The setting of Heritage Assets* - <http://www.english-heritage.org.uk/publications/setting-heritage-assets/>

There have been recent appeal decisions and judicial review outcomes that are very relevant to how issues of setting should be taken into account as part of development proposals. You might wish to consider

<http://www.ftb.eu.com/pdf-downloads/barnwellveastnorthamptonshiredcfinaljudgment.pdf> for the clarification it provides that the **great weight** that must be applied to the conservation of designated heritage assets, includes for the harm that might be caused to setting through development proposals.

The setting of the RMC at Seabrook

The setting of military monuments can be easier to determine than for other types of heritage asset. These were designed by the military engineers as a specific response to local geography so as to control land and with intentional lines of fire and sight that help define a setting. Land raising for the refuse dump has had a negative impact on the seaward end of the RMC such that when at canal or rampart level within the scheduled monument the views towards the sea have been largely closed off. Nevertheless we do not consider that this is the only way in which the RMC can be appreciated and understood. Open land between it and the sea remains very important to understanding why the canal is there and how it was to be used as a defensive structure. Views of the site can be obtained from the coast looking landward and from the parts of the canal beginning at the golf course area that still approximate to how the canal and its setting would have been seen when first constructed. There is also a functional and historic relationship between the RMC and fortifications on the higher ground such as the Martello towers. Some views are available from this higher ground and the slopes of the escarpment and these permit the design and historic purpose of the canal to be appreciated despite the undeniable changes that have already taken place to it and its surrounds. The views that show the canal in relation to the sea as a long linear feature with a staggered trace are important and a major

factor in this is the undeveloped green appearance of land between the sea and the canal.

The position of English Heritage

The Princes Parade site forms part of the setting of the RMC as a designated heritage asset and the significance of the canal as a scheduled monument could be seriously harmed by changes to it.

Such a substantial building and its associated parking as a swimming pool and leisure centre would, even without the accompanying proposed school and new houses, be very visible as an interruption to the present undeveloped character of the land at the seaward end of the canal and running as far as the Imperial Hotel near Hythe.

The effect of the proposed development is very likely to amount to Substantial Harm. Past development around the SMC has been cumulatively harmful but the location of and the scale of the change now proposed constitutes a “tipping point” at which the level of harm would in our view become unacceptable. There are no significant buildings at the seaward end of the canal between it and the sea i.e. the historic openness though changed still remains. Such openness is important in understanding why the canal is where it is and how it would have been used.

The online Planning Policy Guidance provides some advice about when harm might be substantial harm. It says

Whether a proposal causes substantial harm will be a judgment for the decision taker, having regard to the circumstances of the case and the policy in the National Planning Policy Framework. In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed. The harm may arise from works to the asset or from development within its setting.

We consider that to be substantial harm a development must adversely effect to a major extent a key reason why a historic monument is considered to be so significant as to be deserving of the status of a designated heritage asset. In this case we think the erosion of openness between the RMC and the sea would seriously harm the ability to understand why it was located here as a defensive monument and how it was intended to be used. Our preliminary view (to be tested by consultation of our advisory committee) is that the level of harm likely to be caused by the proposed development would be substantial.

We do not dispute that there could be public benefits arising from the proposal for new public sports facilities, a new school and enhanced green space but we do not think that these are likely to be sufficient to decisively outweigh the harm that would be caused. This is a test for the NPPF which also requires

consideration of the necessity of causing the harm. If there are alternatives that might provide the same or similar public benefits without incurring the harm then these must be given serious consideration. Whilst Princes Parade might be your Council's preferred location for development it is in our view not the only option.

We think that first as promoters of a project for Princes Parade on land it owns and then in its role as planning authority your Council needs to consider the level of harm to the setting of the scheduled monument and to explore to what extent that harm can be avoided e.g. by design or delivery in alternative ways. When the level of harm to be caused can be seen as incapable of reduction then you must weigh that "residual harm" with the public benefits that would be secured. Where residual harm is considered to be substantial harm within the terms of the NPPF then the tests of necessity must be applied and the statement that such harm should be wholly exceptional must be taken into account.

English Heritage accepts that the RMC at Princes Parade is in an unsatisfactory condition and we think that it could be greatly enhanced for its conservation and enjoyment by the public. What we would dispute is that a major development offers the only way to secure such improvements, particularly as in the process we think the significance of the heritage asset would itself be seriously harmed.

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English Heritage

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