

**Thomas, Eric**

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**From:** Shore, Dave [Dave.Shore@shepway.gov.uk]  
**Sent:** 13 June 2016 14:18  
**To:** Sue Rowlands; Matt Shillito; Claire Perrott  
**Cc:** martin@mjmckay.wanadoo.co.uk  
**Subject:** FW: Princes Parade - offer by Historic England to provide charged for pre-application advice  
**Attachments:** agreement to advise under EAS letter 02 06 2016.pdf

Hi

Please find attached a copy of a letter from Peter Kendall at Historic England setting out the nature of their pre-application advice service and his initial thoughts on the Princes Parade development. I suggest we discuss when we meet later in the week.

Dave

David Shore

Strategic Development Projects Manager

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**From:** Jarrett, Andy  
**Sent:** 13 June 2016 14:02  
**To:** Shore, Dave  
**Subject:** FW: Princes Parade - offer by Historic England to provide charged for pre-application advice

Andy Jarrett  
Head of Strategic Development Sites  
Shepway District Council  
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**From:** Kendall, Peter [<mailto:Peter.Kendall@HistoricEngland.org.uk>]

**Sent:** 02 June 2016 12:09

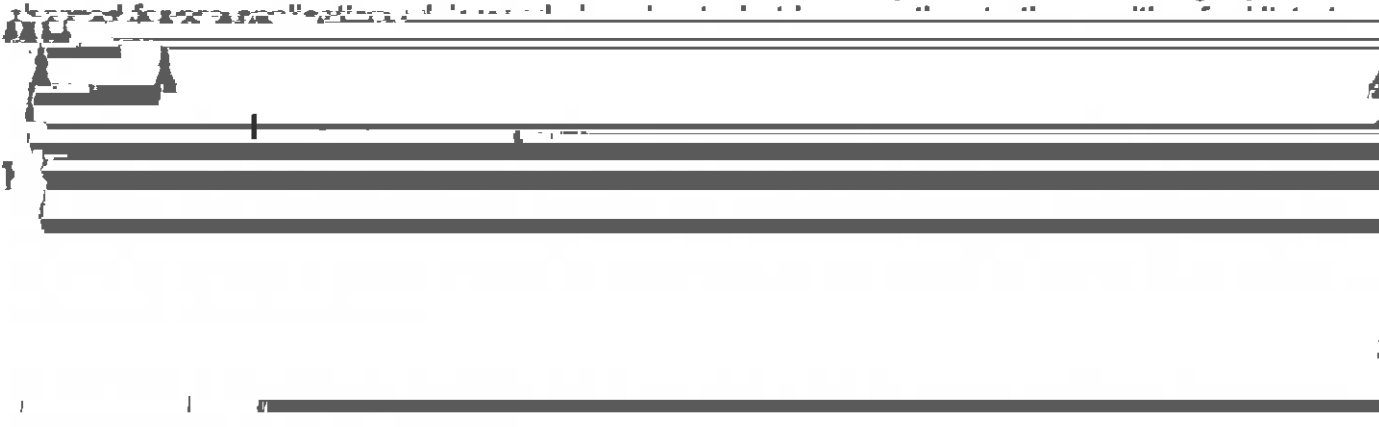
**To:** Jarrett, Andy

**Cc:** Goodhugh, Simon

**Subject:** Princes Parade - offer by Historic England to provide charged for pre-application advice

Hello Andy

Based on our discussions last Friday I am now able to write to you about how we might provide



Regards.

Peter

Peter Kendall  
Principal Inspector of Ancient Monuments

**Development Management Team  
Kent , East and West Sussex and Surrey**

**Direct Line 01483 252038  
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Historic England

Mr Andy Jarrett  
Shepway District Council  
Castle Hill Avenue  
FOLKESTONE  
CT20 2QY

Our ref:  
Your ref:

Telephone 01483 252038  
Fax

02 June 2016

Dear Andy

#### PROPOSED DEVELOPMENT AT PRINCES PARADE

I refer to our discussion on Friday 27<sup>th</sup> May. I am writing to confirm the starting position of Historic England and to suggest how we might best work together so that we can provide you and your advisers with pre-application advice.

You confirmed that you are looking to make a planning application in November which is to include a leisure centre, an as yet unconfirmed but significant amount of new housing, public open space and possibly a realignment of the coast road. The land is owned by Shepway council and you are here acting in the capacity of a "developer". On this basis you are eligible to request our charged for pre-application advice as per <https://historicengland.org.uk/services-skills/our-planning-services/enhanced-advisory-services/extended-pre-application-advice/>. We will deliver an initial free service of 15 hours (of which our meeting and this letter has accounted for 4 hours) after which we will then expect to charge for our on-going involvement on a cost recovery basis.

You accepted that charging would apply. We will need to send you a cost estimate and then sign a contract. I suggest that we might use some of the balance of the available uncharged for 11 hours for an initial meeting with the project team at which we might map out the process leading to a planning application and hence the number of meetings that you think we will need to attend. I can then send you the estimate. This will not be itemised hour by hour, but in addition to attending meetings, it will include travelling time and time to review and confirm our position after each session of advice giving. I will lead our involvement but I may need to call on other colleagues for their specific advice. I can confirm that our pre-application advice is confidential and we will not reveal this to any third party without your specific authority to do so.



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I would now like to turn to our starting position. We are not agreed that major development at this site is capable of being sustainable development. There is a long history to proposals at Princes Parade and you are aware that Historic England has consistently judged these as too harmful to the historic environment. We have raised past objections, including as part of Local Plan allocation of the site. We can now engage with you to see where this takes us but I do feel that I must be clear in advising that based on the scale of proposed change that you have now outlined it is very likely that Historic England may wish to object to a planning application. We are content to look for ways in which harm to be caused can be avoided or minimised and any benefits from development maximised. At the end of discussions we will need to reach a final position based on the residual level of harm as we then see it. We will provide confirmation of our Formal Pre-Application position so that this can be taken into account in any decision to make a planning application and if so the design of the proposal.

Harm to the historic environment will arise chiefly from the proximity of the site to the Royal Military Canal as a scheduled monument. There are also other issues for other scheduled monuments that were contemporary with the canal and which with this formed a defended landscape. We think that planning permission is the primary concern for this proposal but if the RMC is directly affected by any proposed works (or by indirect effects such as flooding) then scheduled monument consent will also be required. We think that it is the harm that could be caused to the significance of the scheduled monuments, as a result of change within the settings of these heritage assets that will be central to our engagement with this proposal. Our advice on such issues is set out in our Good Practice Advice Note No 3 - <https://historicengland.org.uk/images-books/publications/gpa3-setting-of-heritage-assets/>.

The NPPF will inform how a development proposal should be prepared, how it will be considered by your Council in its role as planning authority and how Historic England will offer its advice (to your Council but also potentially to Government (DCLG/DCMS)). NPPF (7) is clear that protecting and enhancing the historic environment is part of the environmental dimension to sustainable development. The NPPF (132) requires that **great weight** should be given to the conservation of designated heritage assets and that the more important the asset the greater that weight should be. Scheduled monuments are nationally important heritage assets. Under the NPPF (132) any harm to these requires **clear and convincing justification**. It also explains that the significance of a heritage asset can be harmed by development in its setting. NPPF (131) advises about the positive contribution that heritage assets can make to sustainable communities and how new development might make a positive contribution to local character and distinctiveness.

Assessment of the level of harm to be caused to the significance of the scheduled monuments from change within their settings might be will be a key issue. For substantial harm NPPF (132 & 133) such harm is described as **wholly exceptional** and would require a demonstration that this level of harm is **necessary to achieve substantial public benefits that outweigh that harm**. For a level of harm that is less than substantial NPPF (134) would apply and this also requires that harm should be weighed against the public benefits of a proposal. There is some available guidance as to what constitutes substantial or less than substantial harm. The PPG (<http://planningguidance.communities.gov.uk/blog/guidance/conserving-and-enhancing-the-historic-environment/>) indicates that the former is a high test and there is also case law to assist further. We will need to consider whether harm arising from development within the setting of the RMC or other heritage assets amounts to substantial harm, but even if



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it does not, case law confirms that less than substantial harm is still a serious matter and that great weight still needs to be placed on conservation. It should not be assumed that public benefits will in all cases be capable of outweighing harm. For substantial harm the test at NPPF (133) refers to necessity and so available alternative sites that would avoid the harm of developing Princes Parade would then be an important factor. Since however all harm to designated heritage assets requires clear and convincing justification, for less than substantial harm, it would still need to be demonstrated why alternative locations for this development do not work. The extant planning permission which includes for a leisure facility at Nickolls Quarry will I think be an important factor.

I suggest that the next step should be for your heritage adviser to start the process as set out in our advice note. Steps 1 and 2 would identify the heritage assets that are affected and the contribution that setting makes to their significance. I would be pleased to share my past work to examine these issues. Setting is often a visual matter but is not exclusively so. How a monument is experienced is relevant and in this instance understanding the military purpose of the canal relies on its relationship to the landscape in which it was created and how far this now survives. Approaching the canal from the sea through land developed for a leisure centre and for new housing in place of what is currently open space will be harmful to such an experience.

The design team should not I suggest commence detailed work on possible development options until they are first able to understand the relevance of the scheduled monuments and the contribution made to the significance of these by setting. Different options for development can then be tested in order to understand their effects. For this it is very likely that sections through the proposed development and the canal will be needed so that the visibility or otherwise of new buildings can be assessed. If you are not able to reverse the land raising caused by the former refuse dump then I expect that new buildings rising to a much higher level than the RMC itself will be an issue.

From the design process your preferred option will emerge and this will need to demonstrate how any harm to be caused has been minimised (in so far as this is possible) and that any opportunities to enhance the heritage assets have been identified and maximised. For the preferred option we are very likely to require Accurate Visual Representations from agreed viewpoints. At the end of the design process we can provide Formal Pre-Application advice. Providing the proposal and information on which we are then asked to comment are identical to what will form the planning application itself, then such advice would be binding i.e. the same position as we will take when formally consulted about planning permission. It may be challenging to reach formal pre-application advice by November. I suspect this will be a complex decision and that we may look to involve our external advisers before coming to our final position. I will allow for this in our cost estimate. It would also be wise to plan for some joint pre-application meetings with other statutory stakeholders so that we can understand their positions and they ours. Your colleagues in the Shepway DC planning team will receive our advice when a planning application is made and will also need to assess and advise upon this. I suggest that they should therefore also be part of the pre-application process.

The public benefits that the development will deliver should wherever possible include heritage benefits so that these can then form part of the weighing exercise. In this instance I think this could include improved management of the RMC and actions to facilitate its



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appropriate enjoyment by the public. Such benefits would need to be part of a development proposal and be based on an updated management plan for the Seabrook part of the canal. However whilst such heritage benefits may be helpful, I think they are unlikely to be sufficient in their own right to make any proposal that causes serious harm acceptable.

We will need to understand why new housing is proposed as part of the project and with this the number of units. You explained that the housing has an "enabling" purpose to help fund the new leisure facility. We will wish to explore these issues further and if appropriate to seek our own independent advice on the viability of the project. For this we may need access to an "open book" for the economics of the project. Using what is now open space for new housing is likely to increase the level of harm to be caused above that which would be caused from a leisure facility alone. For any new housing proposed we will need to explore whether this is the minimum that is necessary. The financial contributions that can be made from the re-use of the existing Hythe town site and from the developer contributions agreed for Nickolls Quarry will be relevant. If the developer for the latter is to no longer provide the leisure facility at their site a higher contribution to reflect this may be appropriate. Any available grants and the contribution that your Council anticipates making from its own resources will both need to be taken into account.

Provision of new houses can be a public benefit but this needs to be seen in the context of other available sites within the district and the necessity of building at Princes Parade. We note that there is no existing Local Plan allocation for residential development but that one may form part of the next draft plan. We must reserve our position about this including a potential for us to object to such an allocation. The last Local Plan process resulted in the Inspector recommending that the Princes Parade site should be preserved as open space and that any leisure related development should be of a modest scale. The development now proposed is of an entirely different scale and thus likely to cause much more harm. We note that a planning application is very likely to be made in advance of any revised Local Plan process for this site.

I hope that this letter covers and builds on our recent discussions. I would be pleased to provide any further clarification that you require. I would also be pleased to meet with your project team and to start detailed pre-application discussions, perhaps once the heritage assessment work is underway. Please suggest some dates.

Yours sincerely



Peter Kendall  
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