

**LOCATION:** PORTLAND PORT, CASTLETOWN, PORTLAND DT5 1PP

**APP REF:** WP/20/00692/DCC

**PROPOSAL:** Comments on Review of proposed Mitigation Doc March 2023 in regard to Battery E

**CASE OFFICER:** Kathryn Melhuish

**Site Visit:** February 2023

## **DESIGN & CONSERVATION OFFICER COMMENTS**

### **THE PROPOSALS**

The 'Updated Access Path Strategy Paper' dated February 2023 includes details of how the applicants propose to mitigate the harm to the Heritage Assets, by re opening a closed footpath to the public, and introducing a 2m high fence either side of the fence. Secured through a S106 obligation. **However I now understand that the fencing element has been removed, so my comments will purely relate to E battery.**

Further information has now been received from the applicants regarding the impact of the development on the setting of the heritage assets, and the proposed mitigation.

Please note these comments seek to clarify the level of harm on the designated heritage assets, and the benefits of the proposed mitigation upon the heritage assets.

### **MAIN ISSUES**

Statute requires that in considering whether to grant planning permission for any works or development, special regard shall be had to the desirability of preserving the listed building or its setting, or any features of special architectural or historic interest which it possesses. There is also the statutory duty arising under section 71(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character of appearance of the Conservation Area. This would also include its setting.

The main issues to consider are;

- The effects of the proposal on the character and setting of the Heritage Assets on the slopes of the Verne, and in the port area which are directly affected by the proposed building.

- Consideration must also be given to whether the proposed mitigation will outweigh the harm identified by the Conservation Officer and Historic England.
- Consideration must also be given to whether any harm that may occur would be outweighed by the public benefits of the proposal.

## **POLICY CONSIDERATION**

In determining the proposals due consideration has been given to the following:

- *In determining the proposals due consideration has been given to Section 16 (Paragraphs 189-208) of the NPPF, Section(s) 66/72 of the 1990 Act*

## **COMMENTS ON PROPOSAL**

- The heritage mitigation proposed to negate the harm from the development, is now clearance of vegetation and repair works to E battery to enable the structure to be removed from the at Risk Register.

### **E Battery**

- The mitigation works proposed are repair and maintenance of the E Battery, with the aim of removing the structure from the buildings at risk register.
- The report identifies that the Battery is neglected and invasive vegetation is creating significant risk of decay to the principle fabric. Whilst the works will have a positive effect upon the asset, there is no mention of any management plan for the structure being secured in a S106 for the structure.
- There is a high probability that these works will simply be a short term fix, and the structure will fall back into disrepair without any ongoing maintenance planned.
- Para 196 of the NPPF States; ***Where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.*** Given the monument has been allowed to fall into disrepair, due to lack of any maintenance, the works could be considered as urgent, rather than 'mitigation'
- There is no doubting that the restoration of this battery and removal from the at Risk register will be a heritage gain, however consideration must be given to the overall setting of the monument, and the significance of this.

## **CONCLUSIONS**

- The proposed mitigation works to battery E will be a benefit. However, as identified above the works, should be considered as urgent, and not as mitigation.
- The mitigation works will not provide any access or accessibility to the public.
- E battery is situated outside of the development boundary, and the proposed works will not mitigate any harm to the setting of the surrounding heritage assets affected by the proposed development.
- The Batteries have substantial Group importance and historic importance in British naval history, by virtue of architectural design, setting, and position. These elements are key elements to the significance of these assets and wider grouping of structures.
- Therefore, I would conclude that the proposed mitigation to E Battery, will not outweigh the harm to the heritage assets identified in the setting of the proposed development. This harm will be less than substantial, however the level of harm to the setting of the heritage assets will be considerable. As described above, less than substantial harm does not mean the harm is acceptable, merely that the level to reach 'substantial harm', by virtue of the loss of a heritage asset is not reached. As per Para 199 of the NPPF Great weight needs to be given to the conservation of heritage assets, and this is not apparent in the proposed development.

**OFFICER:** Kathryn Melhuish BA MA (Arch Cons) IHBC

**TITLE:** Team Leader Conservation and Design

**DATE:** 13/3/2023