

## APPENDIX F - PLANNING FRAMEWORK AND PROTECTIVE DESIGNATIONS

### F1 Introduction

F1.1 Current legislative and regulatory measures at national, regional and local level provide the planning framework for controlling development and changes within the Site and its buffer zone.

### F2 National Legislation

F2.1 The principal national statutes providing protective measures for the Site are described below.

#### **Town and Country Planning Act 1990**

F2.2 This requires local planning authorities to have regard to environmental considerations, including those related to the historic, natural and cultural heritage in preparing their Development Plan policies and proposals. Medway Council is the local planning authority for the Site and its setting.

#### **Planning and Compulsory Purchase Act 2004**

F2.3 This Act outlines the need to have regard for protection of the environment, including cultural heritage when controlling development. It modernises the planning system by introducing Regional Spatial Strategies and Local Development Frameworks (replacing existing 'development plans' comprising regional planning guidance, structure plans and local plans). Local Development Frameworks will contain, among other things, a portfolio of documents including a core strategy of policies, Area Action Plans for those areas with significant regeneration or conservation needs, and non-statutory Supplementary Planning Documents.

#### **Ancient Monuments and Archaeological Areas Act 1979**

F2.4 This provides the statutory framework under which a schedule of archaeological and historical monuments deemed to be of national importance is established and maintained, as well as the basis for protecting these sites and controlling works through a formal system of Scheduled Monument Consent. English Heritage is the agency that delivers advice to the Department of Culture, Media and Sport on the inclusion of sites on the schedule and the granting of consents.

#### **Planning (Listed Buildings and Conservation Areas) Act 1990**

F2.5 Under this legislation, the Government maintains a list of buildings of special architectural or historic interest, and operates a Listed Building Consent process to control works that affect them. Listed buildings are classified into grades to show their relative importance:

- Grade I - buildings of exceptional interest (around 2% of all listed buildings);
- Grade II\* - particularly important and of more than special interest (around 4% of all listed buildings); and
- Grade II - buildings of special interest, which warrant every effort being made to preserve them.

- F2.6 English Heritage, and where relevant the Local Planning Authority, are responsible for controlling all work on listed buildings through this Act. Even relatively minor works, such as painting, may affect the character of a listed building and may need listed building consent from the Local Planning Authority.
- F2.7 The Act also enables local authorities to designate Conservation Areas. These are ‘an area of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance.’ Conservation Areas vary in size, and often include clusters of listed buildings; however, other features of merit, such as open spaces, trees, historic street patterns or items of historic or archaeological interest, may also contribute to the special character of an area. The legislation places a duty on local planning authorities to identify the special qualities and formulate proposals for the conservation and enhancement of these Conservation Areas. Relatively minor works, such as painting, removal of doors and windows, and paving front gardens may affect the character of a Conservation Area and may need consent from the Local Planning Authority. The main purpose of a Conservation Area is to ensure that care will be taken over decisions affecting its future, that any alterations respect the particular character and interest of the area and that the case for preservation is taken fully into account in considering the merits of any redevelopment proposals.

#### **Wildlife and Countryside Act 1981 (as amended)**

- F2.8 This is the principle mechanism for the legislative protection of wildlife in the UK. This legislation is the means by which the Convention on the Conservation of European Wildlife and Natural Habitats (the 'Bern Convention') and the European Union Directives on the Conservation of Wild Birds (79/409/EEC) and Natural Habitats and Wild Fauna and Flora (92/43/FFC) are implemented in Great Britain.

#### **Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999**

- F2.9 Certain planning applications are subject to an Environmental Impact Assessment (EIA). Major projects for which an EIA may be required are listed in the European Union Directive 97/11/EC, as implemented in England by the *Town and Country Planning (Environmental Impact Assessment) (England) (Amendments) Regulations 2007*. Developers must compile an Environmental Statement describing the predicted effects of the development on the environment, and setting out proposed mitigation measures to avoid, reduce and remedy potential significant adverse effects. EIA is an important procedure for ensuring that the likely effects of new development on the environment are fully understood and taken into account before the development is allowed to go ahead. This helps to promote a sustainable pattern of physical development and land and property use. The more environmentally sensitive the location, the more likely that the effects of development will be significant and that an EIA will be required. ‘Sensitive Areas’, as defined in the Regulations, include World Heritage Sites.

#### **Draft Heritage Protection Bill (2008)**

- F2.10 A review of the heritage protection system by the UK Government commenced in 2004. The review seeks to establish a legislative framework that provides for more positive management and enabling of change in the historic environment. Some reforms took effect

from 2005, while other measures requiring primary legislation will take longer to come into force.

- F2.11 A draft Heritage Protection Bill was published in April 2008. The draft Bill seeks to put in place a modern system of protection for the historic environment that provides for the following:
- A faster, more open system devolved to English Heritage;
  - One simple system to unite all significant historic sites and buildings;
  - Simplified consent procedures for complex sites; and
  - Strengthened protection for vulnerable sites (including World Heritage Sites).
- F2.12 The draft Bill includes specific proposals to provide a clearer framework for the way in which World Heritage Sites operate alongside other elements of the heritage protection system. While it is acknowledged that in general World Heritage Sites are already adequately protected in the UK, some small changes are proposed to clarify and strengthen protection. These include:
- Specific notification and call-in requirements for significant developments affecting World Heritage Sites and strengthened protection against minor works;
  - An update of the Government's policy guidance through the issuing of a new planning circular that would further recognise in national policy the need to protect World Heritage Sites as sites of outstanding universal value; and
  - Inclusion of World Heritage Sites as Article (5) land under the Town and Country Planning (General Permitted Development) Order 1995 - to put World Heritage Sites on the same footing as Conservation Areas, National Parks and Areas of Outstanding Natural Beauty with regard to permitted development rights.
- F2.13 The draft Bill will be subject to pre-legislative scrutiny before its passage through Parliament. In the meantime, the legal framework for protecting the historic environment within the Site and the Buffer zone is provided by current legislative and regulatory measures.

### **F3 National Planning Policy Guidance**

- F3.1 To assist in ensuring that the planning process and means of implementing protective measures operate in accordance with an established statutory planning framework, the Government has produced a range of guidance on land-use planning issues. 'Planning Policy Guidance Notes' (PPGs) and 'Planning Policy Statements' (PPSs), represent the Government's policies on development and are given great weight in the determination of planning applications, listed building consent and any subsequent appeals.
- F3.2 National planning guidance for the identification and protection of historic buildings, conservation areas, archaeological remains and other elements of the historic environment is set out in PPG15 *Planning and the Historic Environment* and PPG16 *Archaeology and Planning*.

#### **Planning Policy Statement 1: Delivering Sustainable Development (2005)**

- F3.3 This sets out the UK Government's overarching planning policies on the delivery of sustainable development through the planning system. It outlines the key principles that should be applied to ensure the planning system contributes to the delivery of sustainable development. Relevant policy aims and objectives include:
- Promoting the efficient use of land through higher density development, mixed uses and the re-use of existing buildings;

- Enhancing and preserving biodiversity, natural habitats, the historic environment and the landscape; and
- Addressing the causes and impacts of climate change and the safeguarding of natural resources.

F3.4 PPS1 requires development to achieve high quality design that ensures attractive, usable, durable and adaptable places. PPS1 also provides guidance and defines objectives for community involvement in the planning process including determination of planning applications.

#### **Planning Policy Statement 9: Biodiversity and Geological Conservation (2005)**

F3.5 PPS9 sets out the UK Government's policies for the protection of the natural environment. A key objective of PPS9 is that planning decisions should aim to prevent harm to biodiversity and geological conservation interests, and these interests should be maintained, enhanced, restored or added to as part of development proposals. PPS9 identifies the importance of habitat networks as an environmental resource, and encourages local authorities to maintain and protect such networks by avoiding or repairing the fragmentation and isolation of natural habitats through policies in plans.

#### **Planning Policy Guidance 15: Planning and the Historic Environment (1994)**

F3.6 PPG15 identifies the UK Government's policies and guidance in respect of the Historic Environment. It identifies the government's commitment to the preservation and retention of shared cultural heritage and the importance and benefits of preservation of the nation's built heritage. In determining proposals for development the guidance attaches particular importance to early consultation with the local planning authority on development proposals that would affect historic sites and structures – including listed buildings, conservation areas and historic parks and gardens. It indicates that the design of new buildings intended to stand alongside historic buildings needs very careful consideration. It identifies that new buildings will be appropriate where they are carefully designed to respect their setting, follow fundamental architectural principles of scale, height, massing and alignment, and use appropriate materials.

F3.7 PPG15 is the key document regarding protection of World Heritage Sites, in particular paragraphs 2.22 and 2.23, which emphasise that inscription of a World Heritage Site does not have statutory controls, although is a material consideration in determining planning applications and listed building consent. It advises that local planning authorities should formulate specific planning policies for protecting a World Heritage Site in their Development Plan. PPG15 states:

*'2.22 No additional statutory controls follow from the inclusion of a site in the World Heritage list. However, inclusion does highlight the outstanding international importance of the Site as a key material consideration to be taken into account by local planning authorities in determining planning and listed building consent applications, and by the Secretary of State in determining cases on appeal or following call-in.'*

*2.23 Each local authority concerned, taking account of World Heritage Site designation and other relevant statutory designations, should formulate specific planning policies for protecting these sites and include these policies in their development plans. Policies should reflect the fact that all these sites have been designated for their outstanding universal value, and they should place great weight on the need to protect them for the benefit of future generations as well as our own. Development proposals affecting*

*these sites or their setting may be compatible with this objective, but should always be carefully scrutinised for their likely effect on the Site or its setting in the longer term. Significant development proposals affecting World Heritage Sites will generally require formal environmental assessment, to ensure that their immediate impact and their implications for the longer term are fully evaluated.'*

### **Planning Circular on World Heritage Sites (2009)**

- F3.8 The UK Government published draft measures to enhance the protection of World Heritage Sites in England in May 2008 following a commitment in its white paper *Heritage Protection for the 21<sup>st</sup> Century*, published by the Department for Culture, Media and Sport. A consultation paper on the Protection of World Heritage Sites (March 2007) included a ***draft Planning Circular on World Heritage Sites*** jointly prepared by the Department for Communities and Local Government and the Department for Culture, Media and Sport. The Circular meets the Government's commitment to "...*further recognise in national policy the need to protect World Heritage Sites as sites of outstanding universal value, and...make more prominent the need to create a management plan for each WHS, including, where needed, the delineation of a buffer zone around it.*"
- F3.9 The Planning Circular, which replaced the current advice in paragraphs 2.22 to 2.23 and 6.35 to 6.37 of PPG15, provides updated national policy guidance on the level of protection and management required for World Heritage Sites as sites of outstanding universal value. It explains the Government's proposed objectives for the protection of WHS, the principles which underpin those objectives, and the actions necessary to achieve them. The Circular states:

#### ***'Objectives***

*6. World Heritage Sites are places of outstanding universal value to the whole of humanity. Outstanding universal value means cultural and/or natural significance which is so exceptional as to transcend national boundaries. As such, the permanent protection of this heritage is of high importance for present and future generations. Under the terms of Article 4 of the UNESCO Convention, the UK government has undertaken the identification, protection, conservation, presentation and transmission of its World Heritage Sites to future generations. This is reflected in national policy guidance by the Government's commitment in Planning Policy Statement 1 (Delivering Sustainable Development) to protect and enhance the quality of the natural and historic environment through the planning system, and to ensure that places with national and international designations receive the highest level of protection.*

*7. World Heritage Sites can also contribute to a national and local sense of community and to sustainable economic development. It is therefore important to ensure the continued conservation and sustainable use of these places.*

*8. The outstanding universal value of a World Heritage Site, as agreed by the intergovernmental UNESCO World Heritage Committee, indicates its importance as a key material consideration to be taken into account by local planning authorities in determining planning and listed building consent applications, and by the Secretary of State in determining cases on appeal or following call-in. It is therefore essential that policy frameworks at all levels recognise the need to protect the outstanding universal value of World Heritage Sites. The objective should be to protect the outstanding universal value of each World Heritage Site as agreed by the intergovernmental UNESCO World Heritage Committee at the time of inscription on the World Heritage List or as subsequently formally amended by them, as well as the authenticity and integrity of each site.*

*9. Since 1994 it has been Government policy that the most appropriate way of meeting the UK's obligations to protect, manage, present and transmit to future generations the World Heritage Sites on*

*its territory is through the inclusion of appropriate policies in planning documents (see paragraphs 10-12) and through the development of Management Plans (see paragraphs 13-14).*

#### *Policies for the protection of WHS*

*10. The planning system in England requires the maximum use to be made of statements of national (and regional) policy and the minimum amount of duplication at local level. Existing international and national policy, including this circular and the policy guidance highlighted in paragraph three above, may therefore be referred to, but should not be reproduced, in development plan documents. Appropriate policies for the protection and sustainable use of World Heritage Sites, which supplement international and national policy and take account of the specific regional or local circumstances of a particular WHS, should be included in Regional Spatial Strategies (the Spatial Development Strategy in London) and/or in Local Development Frameworks. In devising their own strategies for sustainable development in the Local Development Framework, local planning authorities should take account of WHS, in particular how the international and national policies for their protection should be worked into and reflected in their strategies for sustainable economic growth. Policies for the protection and sustainable use of particular WHS should apply both to the site itself and, as appropriate, to its setting, including any Buffer zone (see paragraphs 16-17).*

*11. Local authorities must have regard to these policies when devising any site specific proposals for an area which includes a WHS, and its setting including any Buffer zone, and in deciding which parts of their areas to promote for development.*

#### *Principles*

*12. Policies should reflect the fact that all these sites have been designated for their outstanding universal value, and they should place due weight on the need to protect them for the benefit of future generations as well as our own. In developing such policies to protect and enhance WHS, local planning authorities should aim to satisfy the following principles:*

*\* protecting the World Heritage Site and its setting, including any Buffer zone, from inappropriate development;*

*\* striking a balance between the needs of conservation, access, the interests of the local community and the achievement of sustainable economic growth; and*

*\* protecting a WHS from the effect of changes which are relatively minor but which, on a cumulative basis, could have a significant effect.*

#### *Actions*

##### *World Heritage Site Management Plans*

*13. A Management Plan needs to cover all the issues affecting the site, some of which do not relate to planning matters, and to reflect the advice cited in the UNESCO Operational Guidelines. It needs to be developed in a consensual way, fully involving all interested parties, including those responsible for managing, owning or administering the Site. The key stakeholders should form a Management Plan Steering Group, which will, in many cases, be led by the relevant local or regional authority. The plan needs to draw its policies from a proper understanding of the significance of the site and focus on protection of the outstanding universal value, authenticity and integrity of the site. The plan should take account of sustainable community strategies as relevant. Further guidance on the preparation of Management Plans is provided in [the English Heritage Guidance Note].*

*14. The Secretaries of State for Communities and Local Government and for Culture, Media and Sport expect local authorities to treat relevant policies in Management Plans as material considerations in*

*making plans and planning decisions, to take them fully into account when devising core strategies and other local development documents, and to give them due weight in their other actions relating to World Heritage Sites. For some sites it may be useful for Management Plan Steering Groups to develop the section of the Management Plan dealing with development control in such a way as to allow adoption of that section within a local development document.*

#### *Protecting the setting of World Heritage Sites*

*15. The setting of a World Heritage Site is the area around it (including any Buffer zone or its equivalent as defined below) in which development is capable of having an adverse impact on the World Heritage Site, including an impact on views to or from the Site. In developing plans for the protection of WHS it is important to consider carefully how to protect the setting of each WHS so that its outstanding universal value, integrity, authenticity and significance is not adversely affected by inappropriate developments close to it. The UNESCO Operational Guidelines seek protection of the immediate setting of each World Heritage Site, of important views and of other areas that are functionally important as a support to the Site and its protection. This can be achieved in various ways.*

*16. The UNESCO Operational Guidelines (paragraph 104) suggest the designation of a Buffer zone around the WHS wherever this may be necessary for its conservation. A Buffer zone is defined in the guidelines as an area surrounding the World Heritage Site which has complementary legal restriction placed on its use and development to give an added layer of protection to the WHS. This should be achieved in the same way as for the World Heritage Site itself (see paragraph 10 above). Additional policies may also be needed in Local Development Frameworks if it is considered necessary to protect the setting beyond any Buffer zone.*

*17. If it is thought necessary to establish or amend a Buffer zone or equivalent protection after a Site is inscribed, any such proposal will have to be agreed with DCMS since the latter must submit them to the intergovernmental UNESCO World Heritage Committee for approval (paragraph 107 of the UNESCO Operational Guidelines). Appropriate policies must also be adopted by the local authority.*

*18. It may be appropriate to protect the setting of the WHS in other ways, for example by the protection of specific views and viewpoints. Other landscape designations may also prove effective in protecting the setting of a World Heritage Site. However it is intended to protect the setting, it will be essential to explain how this will be done in the Local Development Framework.*

#### *Call In procedures*

*19. The white paper introduced a new proposal to increase the protection of World Heritage Sites and ensure that the outstanding universal value for which the Site is inscribed is properly reflected in development proposals. The Secretary of State for Communities and Local Government [has recently consulted] on this proposal, which would require local authorities to refer certain applications relating to World Heritage Sites, for consideration as to whether they should be called in for determination by the Secretary of State. Relevant applications are those where the local planning authority is minded to grant planning permission for a proposed development but English Heritage have objected on the grounds that it could have an adverse impact on the outstanding universal value, integrity, authenticity and significance of a World Heritage Site or its setting, including any Buffer zone or its equivalent.*

#### *Minor incremental changes*

*20. As well as protecting a WHS from the impact of major developments, it is also important to protect each Site from minor incremental changes which can erode its outstanding universal value, integrity,*

*authenticity and significance. The Government is therefore adding World Heritage Sites to the land described as Article 1 (5) land in the Town and Country Planning (General Permitted Development) Order 1995, which includes National Parks, Areas of Outstanding Natural Beauty, and conservation areas. The effect of this would be to restrict permitted development rights for some types of development on Article 1(5) land (see attached annex). Parts of some World Heritage Sites are already Article 1(5) land. A draft revision to the definition of Article 1(5) land is being published alongside this circular. These revisions do not extend to incremental development in the Buffer zone or wider setting of the World Heritage Site.*

*21. Local authorities can further restrict these and other permitted developments using directions under Article 4 and Article 7 (minerals operations) of the 1995 Order if they consider it expedient to do so in the interests of protecting the outstanding universal value, integrity and authenticity of the World Heritage Site.*

#### *Other controls*

*22. There are other existing regulatory provisions which help to protect the outstanding universal value of World Heritage Sites.*

*23. World Heritage Sites are “sensitive areas” for the purposes of the Environmental Impact Assessment (EIA) Regulations<sup>1</sup>. This means that local planning authorities must require EIA to be carried out for any development proposal in, or partly in, a World Heritage Site if they consider it is likely to have a significant effect on the environment. In addition, Design and Access Statements are required for development proposals affecting World Heritage Sites*

*24. The white paper also proposed the introduction of Heritage Partnership Agreements (HPAs) for the management of complex heritage assets. HPAs are made between owners of a site, the local planning authority and English Heritage if appropriate. They agree categories of work that can be carried out without specific consent. These are not the same as World Heritage Site Management Plans which set general policies and priorities for the protection and sustainable use of World Heritage Sites and which need to involve all the key stakeholders in each Site. It may be appropriate in some cases for parts of a World Heritage Site in a single ownership to be the subject of a Heritage Partnership Agreement. In such cases, the HPA would need to be established within the policy framework set by the WHS Management Plan.*

*25. English Heritage has developed further guidance on World Heritage Sites to supplement and support this planning circular. This guidance has been endorsed by the Secretaries of State for Communities and Local Government and for Culture, Media and Sport.’*

### **Planning Policy Guidance 16: Archaeology and Planning (1990)**

- F3.10 PPG16 sets out the UK Government’s policy on archaeological remains on land, and how they should be preserved or recorded in the planning system. It gives advice on the handling of archaeological remains and discoveries under the development control system, including the weight to be given to them in planning decisions and the use of planning conditions.
- F3.11 PPG16 identifies the importance of early consideration, before formal planning applications are made, of whether archaeological remains exist on a site and the implications for the development proposal. When important remains are known to exist developers are required to prepare sympathetic designs using, for example, foundations which avoid disturbing the remains altogether or minimise damage by raising ground levels under a proposed new

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<sup>1</sup> SI 1999/293

structure, or by the careful siting of landscaped or open areas. PPG16 also identifies that there are techniques available for sealing archaeological remains underneath buildings or landscaping, thus securing their preservation for the future even though they remain inaccessible for the time being. PPG16 identifies that if physical preservation *in situ* is not feasible, an archaeological excavation for the purposes of 'preservation by record', may be an acceptable alternative. It identifies that excavation should be regarded as a second best option.

#### **F4 The Regional Spatial Strategy**

F4.1 Regional Planning Guidance 9 (RPG9) was adopted as the Regional Spatial Strategy for the South East under the transitional arrangements contained in the Planning and Compulsory Purchase Act 2004. It covers the period to 2026.

F4.2 The new South East Plan prepared by the South East England Regional Assembly (SEERA) will set out an integrated, social, economic and environmental spatial strategy for the future development of the South East region. The draft Plan has been subject to an Examination in Public and the Panel's report of that examination was published in August 2007. The Panel have made recommendations for changes to the draft Plan that are now under consideration by the Secretary of State (SoS) alongside representations submitted following consultation. The SoS proposed modifications to the draft Plan for public consultation published in July 2008. Once approved in 2009, the South East Plan will replace RPG9 and all Local Development Frameworks and development control decisions will be required to be in general conformity with it.

F4.3 The submission draft of the South East Plan (March 2006) recognises that the historic environment (which includes the region's two inscribed World Heritage Sites and the three on the current Tentative List - including Chatham Dockyard and its Defences) is fragile and requires protection. The Plan also recognises that the historic environment has significant potential to contribute to a sense of place and identity, and add to the region's quality of life through understanding and appropriate management and access. The Plan identifies the maritime heritage relating to the Thames Estuary (including the naval Dockyard of Chatham) and the defense heritage of the region as regionally significant historic features and sites in the South East.

F4.4 The Plan seeks sustainable management of the historic environment through the planning system and other plans and strategies based upon an understanding of its significance and vulnerability to change. Policy BE7 on the Management of the Historic Environment states:

*'In developing and implementing plans and strategies, local authorities and other bodies should adopt policies and proposals which support the conservation and, where appropriate, the enhancement of the historic environment and the contribution it makes to local and regional distinctiveness and sense of place. Proposals that make sensitive use of historic assets through regeneration, particularly where these bring redundant or under-used buildings and areas into appropriate use, should be encouraged.'*

#### **F5 Local Planning Policy**

F5.1 Medway Council has a statutory duty to prepare plans to control and regulate most forms of development within its administrative area. The power to control development is one that derives from primary legislation (in the form of the various *Town and Country Planning Acts*) and is given to the council by central Government. The council grants planning permission to permit development to occur. As the Local Planning Authority, the council is required to

prepare a development plan to guide development and to protect and enhance the environment and historic, natural and cultural heritage.

- F5.2 The Medway Local Plan adopted in 2003 is currently the statutory development plan for Medway under the Town and Country Planning Act (1990). The Local Plan sets out the future of how land is used, and guides development proposals to help safeguard and improve the environment, meet the needs of those living and working in the area and promote sustainable communities. This Plan provides the Local Planning Authority with a policy framework for making decisions on planning applications in and around the Site. All planning applications must be determined in accordance with the Local Plan, except in special circumstances.
- F5.3 Development control policies in the Local Plan relevant to the control of change within the Site and its setting are set out in **Annex F1**. The Local Planning Authority is responsible for implementing these policies with guidance from the Regional Spatial Strategy, Planning Policy Guidance Notes and Planning Policy Statements.
- F5.4 In response to increasing demand for development of tall buildings associated with the urban renaissance and regeneration of the Medway waterfront area, the council has produced guidance entitled A Building Height Policy for Medway (adopted May 2006). This is a supplementary planning document (SPD) to the main policies of the Medway Local Plan 2003. In order to protect the historic built environment, and the landscape and riverside setting of Medway, the SPD identifies specific locations suitable for higher buildings within the Medway waterfront area. It also provides guidance to assist developers and architects in designing higher buildings of high quality in appropriate locations.
- F5.5 As noted in Section F5.2, the Planning and Compulsory Purchase Act (2004) established a new approach to spatial planning. Medway Council is responsible for preparing an LDF for its area that will consist of development plan documents and other local development documents. The council is currently preparing a revised Local Development Scheme setting out the programme for the preparation of these documents. The Core Strategy and other relevant development plan documents will include policies relevant to the control of change within the Site and its setting. The Core Strategy is scheduled to be completed and adopted by 2011.

## **F6 Protective Designations**

- F6.1 Protective designations within the Site and Buffer zone are shown on **Figure 7** (historic environment) and **Figure 8** (natural environment and recreation), and are described below.

### **Protective designations within the Site**

- F6.2 Areas, buildings and features of conservation value and importance within the Site are currently safeguarded through a range of existing protective designations and measures provided under the provisions of established planning legislation, policies and practice. The current protective designations that apply within the Site are set out below. Much of the Site's historic environment benefits from statutory protection under the *Ancient Monuments and Archaeological Areas Act 1979* and the *Planning (Listed Buildings and Conservation Areas) Act 1990*, with additional protective policy measures provided through the Development Plan.

<b>Designation</b>	<b>Location/Extent</b>	<b>Legislative Act under which status is provided</b>	<b>Level of protection</b>
<b><i>Conservation Areas</i></b>	<ul style="list-style-type: none"> <li>• Upper Upnor (designated 04/09/70 extended 17/01/05)</li> <li>• Brompton Lines (designated 3/02/81 extended 25/04/06)</li> <li>• Pembroke (08/03/89)</li> <li>• Chatham Historic Dockyard (1999)</li> </ul> <p>Covering 198.25 ha or 67.5% of the Site, the majority of the landbased part of the Site is within a Conservation Area.</p>	Designated by Medway Council under the Planning (Listed Buildings and Conservation Areas) Act 1990.	The designation grants statutory protection of the fabric, character and setting of the special architectural or historic interest of the Conservation Area. An Article 4 Direction applies to Upper Upnor, which requires planning permission to be sought for some works that would not normally be required.
<b><i>Registered Historic Parks and Gardens</i></b>	<ul style="list-style-type: none"> <li>• Commissioners' Garden, Chatham</li> <li>• The Officers' Terrace, Chatham</li> </ul> <p>These cover a total of 1.5ha (0.5% of the total area of the Site)</p>	National register compiled by English Heritage.	Non-statutory register but it is a material consideration when deciding land use planning applications
<b><i>Scheduled Monuments</i></b>	50 Scheduled Monuments covering 24.9ha or 8.5% of the total Site area.	Schedulings are made under the Ancient Monuments and Archaeological Areas Act 1979.	The designation grants statutory protection of the fabric, character and setting of a Scheduled Monument.
<b><i>Listed Buildings</i></b>	120 Listed Buildings 10 Grade I 43 Grade II* 67 Grade II  covering 9.8ha or 3.3% of the total Site area.	Listings are made under Section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990.	Under the Act, the Local Planning Authority is required to have special regard for the desirability of preserving Listed Buildings and their settings.
<b><i>Areas of Archaeological Potential</i></b>	An area of archaeological potential (3.12ha), and an area of lower archaeological potential (0.003ha) concentrated on Gun Wharf (designated Sept 2003)	Identified from the Kent Archaeological Sites and Monuments Record	Protected through Medway Local Plan 2003. The designation offers no statutory protection but is a material consideration when deciding land use planning applications

<b>Designation</b>	<b>Location/Extent</b>	<b>Legislative Act under which status is provided</b>	<b>Level of protection</b>
<i>Designated Open Space</i>	Centred on the Great Lines, 96.9ha or 33% of the Site is designated open space (designated May 2003).	Designated by Medway Council	Protected through Medway Local Plan 2003. The designation offers no statutory protection but is a material consideration when deciding land use planning applications
<i>Areas of Local Landscape Importance</i>	Open land covering the Lower Lines, Inner Lines and the Great Lines. The area covered by this designation almost entirely follows that of the designated open space and covers 74.1ha (25.3% of the Site by area). Designated Sept 2003	Designated by Medway Council	Protected through Medway Local Plan 2003. The designation offers no statutory protection but is a material consideration when deciding land use planning applications
<i>Sites of Nature Conservation Importance (SNCIs)</i>	One SNCI within the Great Lines covering 26.8ha (9.1% of the Site by area). Designated May 2003	Medway Council are encouraged to designate SNCIs by the Wildlife and Countryside Act 1981 (as amended).	Protected through Medway Local Plan 2003. The designation offers no statutory protection but is a material consideration when deciding land use planning applications

### Protective designations within the buffer zone

F6.3 Areas, buildings and features of conservation value and importance within the buffer zone are currently safeguarded through a range of protective designations and measures provided under the provisions of established planning legislation, policies and practice. The current protective designations that apply to the buffer zone are set out below.

<b>Designation</b>	<b>Location/Extent</b>	<b>Legislative Act under which status is provided</b>	<b>Level of protection</b>
<i>Conservation Areas</i>	<ul style="list-style-type: none"> <li>• Upper Upnor (designated 04/09/70 extended 17/01/05)</li> <li>• Brompton Lines (designated 3/02/81 extended 25/04/06)</li> <li>• Pembroke (08/03/89)</li> </ul>	Designated by Medway Council under the Planning (Listed Buildings and Conservation Areas) Act 1990.	The designation grants statutory protection of the fabric, character and setting of the special architectural or historic interest of the Conservation Area. An Article 4 Direction applies to the Upper Upnor Conservation Area, and parts of Brompton Lines,

Designation	Location/Extent	Legislative Act under which status is provided	Level of protection
	<ul style="list-style-type: none"> <li>• Chatham Historic Dockyard (1999)</li> <li>• Star Hill to Sun Pier (24/10/94)</li> <li>• New Road</li> </ul> <p>Conservation Areas cover a total of 46ha or 6.5% of the buffer zone.</p>		which requires planning permission to be sought for some works that would not normally be required.
<i>Listed Buildings</i>	53 Listed Buildings, with concentrations in HMS Pembroke, Chatham town centre and Upnor.	Listings are made under Section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990.	Under the Act, the Local Planning Authority is required to have special regard for the desirability of preserving Listed Buildings and their settings.
<i>Areas of Archaeological Potential</i>	Areas of archaeological potential cover 28.7ha or 3.6% of the buffer zone. They are concentrated in Chatham. Designated Sept 2003	Identified from the Kent Archaeological Sites and Monuments Record	Protected through Medway Local Plan 2003. The designation offers no statutory protection but is a material consideration when deciding land use planning applications

## F7 Development Control

F7.1 Planning issues in respect of new buildings, changes of use of existing buildings and land and alterations to and management of the built environment and land in England are normally controlled by the English system of land use planning, of which the principle statutes were described in Section F2.

F7.2 Any proposal for development, a change of use or alterations to a building, must seek planning permission (although some minor changes and alterations fall under 'permitted development'). Planning permission must be sought through the Local Planning Authority (Medway Council). The Local Planning Authority has to consider all its operative policies contained within its development plan, which is based on government policies, before permission is granted. Development control decisions are made by elected representatives of the council following advice from the Chief Planner. Applications are determined on their own merits in the context of national, regional and local planning policies. Applications are either approved, usually subject to conditions, or refused for specified reasons. If an application is refused, applicants have the right of appeal to the Secretary of State. For significant development proposals affecting the World Heritage Site, the Local Planning

Authority may require a formal Environmental Impact Assessment to be undertaken to support the planning application.

- F7.3 Proposals for development or change within the Site would be assessed against the relevant Local Planning Authority's current development control policies on development, as well as their impact on conservation of the historic built environment and nature conservation considerations. While the Local Planning Authority has responsibility for Listed Building and Conservation Area consent, churches are exempt from Listed Building and Conservation Area controls in relation to certain works under a system of 'Ecclesiastical Exemption'.
- F7.4 Given the protective heritage designations and controls that apply to the Site, proposals for new development or change that would harm the Site's significance are not normally likely to be permitted, except in very special circumstances. In addition, current legislative and regulatory measures at national, regional and local level provide a framework for controlling development and changes within the setting of the Site. Proposals for development or change in the buffer zone would be assessed on their own merits against the Local Planning Authority's current development control policies, taking into account any potential impact on the outstanding universal significance of the Site (such as the potential obstruction of important views of the Site from vantage points or of key strategic views from the Site outwards for example).

## ANNEX F1 - MEDWAY LOCAL PLAN 2003 RELEVANT POLICIES

The relevant policies in the adopted Medway Local Plan (2003) are provided below with key text highlighted in *bold italics*.

### General Policies

#### Policy S1: Development Strategy:

The development strategy for the plan area is to prioritise re-investment in the urban fabric. This will include the redevelopment and recycling of under-used and derelict land within the urban area, with a focus on the Medway riverside areas and Chatham, Gillingham, Strood, Rochester and Rainham town centres. Land use and transport will be closely integrated, and priority will be given to a range of new and improved transport facilities, including facilities for walking, cycling and public transport. Strategic economic development provision will be made both within the urban area and at Kingsnorth and Grain. *In recognition of their particular quality and character, long-term protection will be afforded to:*

- (i) areas of international, national or other strategic importance for nature conservation and landscape; and*
- (ii) the historic built environment, including the Historic Dockyard, associated sites and fortifications.*

#### Policy S2: Strategic Principles

The implementation of the development strategy set out in policy S1 will focus on:

- (i) maintaining and improving environmental quality and design standards;
- (ii) a sustainable approach to the location and mix of new development, to provide local communities with a range of local facilities, (including transport measures to serve development and sensitivity in the use of energy and natural resources);
- (iii) the adoption of a sequential approach to the location of major people and traffic attracting forms of development, including retailing, leisure, educational and health facilities.

#### Policy S3: River Medway

*Proposals which are consistent with nature conservation, landscape and hydrological policies and which have no adverse impact upon coastal archaeology will be permitted that develop the River Medway for:*

- (i) public access along the riverbank through the construction of riverside walks and cycle-ways;*
- (ii) use as a transportation corridor, both for freight and passengers;*
- (iii) appropriate commercial, tourism and leisure development along the river's edge of a high quality design;*
- (iv) recreational and tourism purposes.*

The inter-tidal habitats of the Medway are an important natural resource. Where any proposed development would affect the inter-tidal habitats, an assessment of its impact will be required. Where development is proposed that will result in any loss of inter-tidal habitats, proposals must include compensatory inter-tidal habitats sufficient to mitigate any loss.

#### Policy S8: Chatham Maritime

In the Chatham Maritime Mixed Use Zone and on St Mary's Island, as defined on the proposals map, a high quality and innovative development will be sought which will set a standard for the Thames Gateway and create a townscape of note.

The development will:

- (i) include a factory outlet centre (retail), Class B1 offices, a hotel, land and water-based leisure uses and housing. Tourist facilities and Class A3 uses of a scale commensurate with their location will also be appropriate.
- (ii) create a new transportation framework for the sites, including improved public transport, cycling and pedestrian links to Chatham and Gillingham town centres with a key objective of reducing the need to travel by the private car.
- (iii) promote high quality and innovative design approaches to create a high quality and vibrant environment.

*(iv) promote development which is complementary to the Chatham Historic Dockyard in order to maximise visitor appeal and integrate the site with the wider environment.*

**Policy S9: Chatham Historic Dockyard**

*At the Historic Dockyard, Chatham, as defined on the proposals map, development that respects the historic character of the site will be permitted. The standard of urban design must be of the highest order.*

**Built and Natural Environment Policies**

**Policy BNE7: Access for All**

Development should be designed so that access to buildings and external circulation areas meets the needs of people with disabilities, the elderly and people with young children. Exceptions will be made in proposals affecting Listed Buildings, Scheduled Ancient Monuments and some buildings in Conservation Areas, if there is an overriding need to avoid damage to their architectural or historic interest.

**Policy BNE12: Conservation Areas**

*Special attention will be paid to the preservation and enhancement of the character and appearance of Conservation Areas, as defined on the proposals map.*

**Policy BNE13: Demolition in Conservation Areas**

*Proposals to demolish a building which makes a positive contribution to the character or appearance of a Conservation Area will not be permitted unless it can be demonstrated that:*

- (i) the building is wholly beyond repair; or*
- (ii) it is incapable of use; or*
- (iii) its design is inappropriate; or*
- (iv) the character and appearance of the Conservation Area would be enhanced by its removal and replacement.*

*Consent will be conditional upon no demolition occurring until a contract has been entered into for approved redevelopment of the site.*

**Policy BNE14: Development in Conservation Areas**

*Development within Conservation Areas, or affecting their setting, should achieve a high quality of design which will preserve or enhance the area's historic or architectural character or appearance. The following criteria will be applied:*

- (i) materials, features and details of buildings or structures which contribute to the character or appearance of the area should be retained or reinstated; and*
- (ii) traditional street patterns, building lines, open spaces and urban spaces, paving and roadway materials, boundary treatments and street furniture should be retained or reinstated; and*
- (iii) the scale, height, mass, roofscape, materials, detailing, fenestration, plot width and depth, and visual appearance of new development should be sympathetic with existing buildings and their settings; and*
- (iv) trees, hedgerows and open spaces should be retained and protected; and*
- (v) hard and soft landscape elements and traditional materials which enhance the area should be utilised.*

*Proposals should be submitted as full applications when they are within, or would affect, a Conservation Area.*

**Policy BNE16: Demolition of Listed Buildings**

*The demolition of Listed Buildings will not be permitted unless it can be demonstrated that there are exceptional and overriding reasons for demolition, and that all possible methods of preserving the building have been investigated.*

**Policy BNE17: Alterations to Listed Buildings**

*Alterations, extensions, conversions or changes of use affecting a Listed Building will not be permitted if they are*

- (i) detrimental to the architectural or historic character of the building; or*
- (ii) unsympathetic in design, scale, appearance and use; or*
- (iii) do not retain original features and materials.*

**Policy BNE18: Setting of Listed Buildings**

*Development which would adversely affect the setting of a listed building will not be permitted if it involves:*

- (ii) the use of internally illuminated signs; or*
- (iii) inappropriate materials; or*
- (iv) the painting over, obscuring or alteration of architectural details or traditional materials.*

**Policy BNE20 Scheduled Ancient Monuments**

*Scheduled Ancient Monuments are defined on the proposals map. Development affecting Scheduled Ancient Monuments or other nationally important sites will not be permitted if it would:*

- (i) damage or destroy such sites; or*
- (ii) be detrimental to their setting.*

**Policy BNE21: Archaeological Sites**

*Development affecting potentially important archaeological sites will not be permitted, unless:*

- (i) the developer, after consultation with the archaeological officer, has arranged for an archaeological field evaluation to be carried out by an approved archaeological body before any decision on the planning application is made; and*
- (ii) it would not lead to the damage or destruction of important archaeological remains. There will be a preference for the preservation of important archaeological remains in situ.*
- (iii) where development would be damaging to archaeological remains, sufficient time and resources are made available for an appropriate archaeological investigation undertaken by an approved archaeological body. Such investigations should be in advance of development and in accordance with a specification and programme of work approved by the council. Resources should also be made available for the publication of the results of the investigation.*

**Policy BNE22: Environmental Enhancement**

Development leading to the protection and improvement of the appearance and environment of existing and proposed areas of development, transport corridors, open spaces and areas adjacent to the River Medway will be permitted.

**Policy BNE36: Strategic and Local Nature Conservation Sites**

Strategic and Local Nature Conservation Sites, as defined on the proposals map, will be given long term protection:

- (i) Sites of Nature Conservation Interest;
- (ii) Designated and proposed Local Nature Reserves.

Development that would materially harm, directly or indirectly, the scientific or wildlife interest of these sites will not be permitted unless the development is connected with, or necessary to, the management of the site's wildlife interest.

Development for which there is an overriding need will exceptionally be permitted if no reasonable alternative site is (or is likely to be) available. The overriding need will be judged against the strategic and/or local importance of the affected nature conservation designation. In such exceptional circumstances, the detrimental impact upon the scientific or wildlife interest should be minimised and appropriate compensatory measures will be required.

**Policy BNE37: Wildlife Habitats**

Development that would cause a loss, directly or indirectly, of important wildlife habitats or features

not protected by policies BNE35 and BNE36 will not be permitted, unless:

- (i) there is an overriding need for the development that outweighs the importance of these wildlife resources; and
- (ii) no reasonable alternative site is (or is likely to be) available if ancient woodland, inter-tidal habitats and calcareous (chalk) grassland would be lost; and
- (iii) the development is designed to minimise the loss involved; and
- (iv) appropriate compensatory measures are provided.

#### Policy BNE38: Wildlife Corridors and Stepping Stones

Development should, wherever practical, make provision for wild life habitats, as part of a network of wildlife corridors or stepping stones.

#### Policy BNE39: Protected Species

Development will not be permitted if statutorily protected species and/or their habitat will be harmed. Conditions will be attached, and/or obligations sought, to ensure that protected species and/or their habitats are safeguarded and maintained.

#### Policy BNE41: Tree Preservation Orders

Tree Preservation Orders will be used to protect trees, groups of trees and woodlands of important public amenity value. In considering applications for works to protected trees, regard will be had to:

- (i) the future health and appearance of the trees and woodlands;
- (ii) where appropriate, requiring replacement planting of felled trees, the planting of an increased number of trees and, ensuring that the planting is incorporated in, and/or adjacent to, the site where the trees are to be felled; and
- (iii) resisting applications for clear felling of woodland and requiring recoppicing or other woodland management to be carried out in accordance with good arboricultural practice.

### **Economic Development Policies**

#### Policy ED9: Chatham Port

Port related development and an expansion of the commercial port at Chatham, as defined on the proposals map, will be permitted subject to the provisions of policy T7 and the enhancement of the setting of the Medway Towns Northern Relief Road.

#### Policy ED11: Existing Tourist Facilities

Development that would be detrimental to, or result in the loss of, existing tourist attractions and facilities will not be permitted.

#### Policy ED12: New Tourist Facilities

The development of new tourist attractions and facilities will be permitted, particularly at the following sites defined on the proposals map:

- (i) Rochester Riverside Action Area (see policy S7);
- (ii) Chatham Maritime (South of Basin 1. Mixed Use Zone - see policy S8);
- (iii) Chatham Historic Dockyard (see policy S9);**
- (iv) Bloors Wharf, Gillingham.

### **Leisure Policies**

#### Policy L3: Protection of Open Space

Development which would involve the loss of existing formal open space, informal open space, allotments or amenity land will not be permitted unless:

- (i) sports and recreation facilities can best be implemented, or retained and enhanced through

redevelopment of a small part of the site; or

(ii) alternative open space provision can be made within the same catchment area and is acceptable in terms of amenity value; or

(iii) in the case of outdoor sports and children's play space provision, there is an excess of such provision in the area (measured against the n.p.f.a. standard of 2.4 hectares per 1,000 population) and such open space neither contributes to, nor has the potential to contribute to, informal leisure, open space or local environmental amenity provision; or

(iv) in the case of educational establishments, the development is required for educational purposes and adequate areas for outdoor sports can be retained or provided elsewhere within the vicinity; or

(v) the site is allocated for other development in the local plan.

#### Policy L10: Public Rights of Way

Development which would prejudice the amenity, or result in the diversion or closure, of existing public rights of way will not be permitted, unless an acceptable alternative route with comparable or improved amenity can be provided.

#### Policy L11: Riverside Path and Cycleway

A riverside path for use by pedestrians and cyclists will be developed between the following locations:

(i) on the south side of the River Medway, linking Gillingham Riverside Country Park to the Historic Dockyard, Rochester Riverside, the Esplanade and Baty's Marsh, Borstal;

(ii) on the north side of the River Medway, linking Hoo, Upnor and Temple Marsh to Halling.

Development on sites fronting the river will not be permitted unless the proposals include a riverside walkway and cycleway, or it can be demonstrated that the operational needs of the development would prevent this. The walkway or cycleway should provide continuity for users by connecting to, or facilitating future connections to, walkways on adjoining sites. The riverside footpath and cycle facility should be designed and routed to minimise the impact on ecology, nature conservation and landscape and take into account the integrity and operational requirements of flood defences.

### **Transportation Policies**

#### Policy T3: Provision for Pedestrians

Medway Council will develop a network of safe and convenient footpaths, to link houses, schools, town centres, work places, recreation areas and public transport routes. Development proposals shall provide attractive and safe pedestrian access. In all cases, they should maintain or improve pedestrian routes related to the site. New pedestrian routes should closely follow pedestrians' preferred routes, should be designed to provide an attractive and safe pedestrian environment, and ensure they are accessible by people with disabilities wherever possible.

#### Policy T4: Cycle Facilities

The council is implementing a network of strategic cycle routes, and the development of this and local routes will be actioned through the Highways Programme and the development process. Major trip attracting development proposals should make provision for cycle facilities related to the site. This may include, where appropriate, the Strategic Cycle Network, cycle priority measures and new or enhanced cycle routes that relate to cyclists' preferred routes. Secure cycle parking and associated facilities will be sought in accordance with the council's adopted cycle parking standards. Provision at public transport interchanges, buildings open to the general public (especially public institutions, leisure, educational and health facilities) and in Chatham town centre, District Centres and Local Centres will be particularly sought.

**RELEVANT SUPPLEMENTARY PLANNING GUIDANCE/DOCUMENTS ADOPTED BY MEDWAY COUNCIL**

- A Building Height Policy for Medway SPD (Medway Council, Adopted 2006)
- Chatham Town Centre & Waterfront Development Brief SPD (Medway Council, Adopted 2008)
- Chatham Town Centre & Waterfront Development Framework SPG (Medway Council, Adopted 2004)
- Brompton Lines Conservation Area Appraisal SPG (Medway Council, Adopted 2006)
- Upnor Conservation Area Appraisal (Medway Council, Adopted 2004)