

Report to	<b>Planning Committee</b>
Date	<b>16 January 2020</b>
By	<b>Director of Planning</b>
Local Authority	<b>Chichester City Council</b>
Application Number	<b>SDNP/19/03904/FUL</b>
Applicant	<b>Mr Scott Curran - BE Midhurst DevCo Ltd. c/o Probitas Developments Ltd.</b>
Applications	<b>Erection of 11 buildings comprising 93 dwellings (Use Class C3) and residents' ancillary facilities, landscaping, parking, internal roads, refuse storage and vehicular access from Scotland Lane.</b>
Address	<b>Land at Kings Green East, King Edward VII Estate, Easebourne, GU29 0FB</b>

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**Recommendation: That permission be refused, for the reasons set out at paragraph 10.1 of this report**

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### **Executive Summary**

The application site forms part of the King Edward VII Estate which is in countryside outside any defined settlement. The site was subject to a comprehensive approval for enabling development in 2011 in order to secure the future of a number of heritage assets, most notably the main Sanatorium and the Chapel. Since the original approval there have been a number of subsequent applications for amendments to various parcels within the overall development. In particular the land that forms this application was originally for 44 dwellings (SDNP/11/03635/FUL).

The latest application seeks an increase from 44 to 93 dwellings together with ancillary facilities to compliment the nature of accommodation (assisted living). This application has been put forward (along with an accompanying application for Superintendent Drive) as enabling development to facilitate the fitting out and use of the Chapel as a restaurant/shop. The applicant considers that their scheme is the only one which can facilitate an end user for the Chapel and thus necessitates additional enabling development to fulfil this.

Officers consider that the original permission addressed the matter of enabling development for the Chapel and ensured the restoration and future maintenance through the S106 legal agreement. This application has not evidenced a means to secure any greater protection of the Chapel in order to justify the grant of permission. The submitted financial information by the applicant is not considered to be robust in terms of demonstrating the extent of funding required for works to the Chapel. In addition, concerns remain that the viability figures put forward by the applicant appear to result in greater risk in terms of conservation deficit. Refusal is therefore recommended in relation to the broad principle of development.

Given that officers have reached the conclusion that the development cannot be considered as appropriate 'enabling development', the proposal involves residential development in the countryside where usually the only type that could potentially be acceptable would be exception housing. The proposal makes no provision for affordable housing and therefore refusal is recommendation on this basis.

Officers also remain concerned about the layout, landscape and design of the scheme and therefore recommend refusal.

The application is placed before the Committee due to previous committee consideration of applications at this site and due to the number of representations received.

## **I. Site Description**

- 1.1 The site is part of the former King Edward VII hospital and grounds which cover approximately 50 hectares and include designated and undesignated heritage assets. It is located in undulating wooded landscape approximately 5.5 kilometres to the north of Midhurst and 6 kilometres to the south of the village of Fernhurst on a south facing slope with extensive views out of the Rother Valley. The wider site rises up to the north and falls away to the west and is mostly covered by pine plantation with coppices of Sweet Chestnut and Silver Birch. 120 trees are protected by Tree Preservation Orders. The surrounding area is a mosaic of heath and woodland and the wider site is bounded from the north west to the south west by Woolbeding and Pound Common, nationally important areas of acid heath land, an important habitat for ground nesting birds, which are both SSSI's and SINCS and owned and managed by the National Trust. A public footpath runs along the eastern and northern edges of the wider site. The wider site is well screened with limited public view points in the vicinity of the site, although there are long distance views from the South Downs way across the Rother Valley.
- 1.2 Access is via a driveway through metal gates from Kings Drive which runs in a south east-north west direction from the A286 where there is a simple priority junction. There is a layby on the south east side of the junction.
- 1.3 The original hospital, completed in 1906, was built as a tuberculosis sanatorium, under the Patronage of King Edward VII. It is a grade II\* listed building. It was designed as two-east west aligned longitudinal blocks, with the southern, longer block splaying out slightly at either end, linked by a central corridor which divided the space between the buildings into 2 open courtyards. The plan divided the sexes with the west wing for male and the east wing for female patients. It is 3 storeys in height and built in banded red and grey brick (as are other original buildings on the site) with tiled and gabled roofs and in Arts and Craft style.
- 1.4 The area to the north was originally left as dense pine wood which was considered beneficial to the health of patients, but the area immediately in front of the building was subsequently cleared as it was found to be oppressive and was prone to mists. This created Kings Green, a 'V' shaped glade in front of the Sanatorium which is included in the designated area of the Grade II Registered Historic Park and Garden (Kings Green)
- 1.5 To the west and set apart from the Sanatorium is the Chapel which is also a Grade II\* Listed Building. To the north west of the Chapel is the Laundry and Engine House (Grade II\* Listed), and the Motor House (protected as a curtilage building). To the east on higher ground to the north of the Sanatorium is the Nurses Home. At the entrance to the site is the Lodge, which is Grade II Listed.
- 1.6 Around the Sanatorium, but now largely surviving in the area adjoining the southern range, are the remains of the gardens which were design and laid out by Gertrude Jekyll upon the completion of the hospital in 1906. These are a designated heritage asset as they are on the English Register of Historic Parks and Gardens as a Grade II designation.
- 1.7 A number of walks run throughout the site and surrounding woodland. These were laid out for use by the TB patients as part of their treatment when the buildings were in use as a Sanatorium. These walks are to be restored by the applicant and made available for use by residents as part of the wider redevelopment at King Edwards VII.
- 1.8 The Sanatorium has been extended by a number of unsympathetic buildings and additions in the second half of the 20th Century to support the use of the site as a hospital specialising in cancer treatment. The remainder of the site, until recently comprised large areas of car parking, roads, drives and amenity grassland associated with the hospital use. The applicant, as part of the consented 2011 scheme, has now removed many of these modern structures to better reveal the listed buildings across the site.
- 1.9 The specific part of the site in question is a diamond shaped plot to the north east of the Sanatorium close to the entrance to the estate. The Lodge, which currently acts as a marketing office for the development, is located to the immediate North East. Scotland Lane runs along the north Eastern boundary of the site with the access road to Hurst Park on the North West boundary. Kings Green

lies to the south west boundary, separated by mature screening of trees with Kings Drive lying to the south eastern boundary, again bounded by mature trees and vegetation. The land beyond Kings Drive to the east is the subject of a separate application before Members for consideration (but, as will be seen, there are recurring themes in consideration of both schemes).

- 1.10 Within the site there is little by way of vegetation, the land having been cleared some time ago. The land slowly slopes downwards from north to south throughout the site.
- 1.11 Most recently, during construction works to Kings Green West, a specific area of the site which is the subject of the current application has been used mainly for parking in relation to the construction works.

## **2. Relevant Planning History**

- 2.1 The description for the comprehensive development of the site approved in 2011, is as follows:-
- 2.2 Application SDNP/11/03635/FUL – Approved 25th November 2011 - Demolition of extensions to Sanatorium, Chapel, Lodge and Engine House; demolition of freestanding storage buildings to north of Engine House; extensions and alterations to Sanatorium and conversion of 148 apartments including provision of new swimming pool and gym at basement level together with other communal facilities; use of chapel as shop and cafe; conversion of Lodge, Engine House, Motor House and Nurses Accommodation to 30 houses and apartments; erection of 2 storey terraces and 3 1/2 storey apartments to provide 79 assisted care living units (use Class 2); erection of 51 no. apartments comprising 7 no. 1 bed, 41 no. 2 bed and 3 no. 4 bed units; erection of 108 no. 2 and 2 1/2 storey houses with detached garage/studios, comprising 26 no. 2 bed, 38 no. 3 bed and 44 no. 4 and 4 + bed houses; construction of underground and surface parking facilities; construction of access roads and drives; provision of estate maintenance building and compound; construction of surface water balancing ponds; provision of natural recreation facilities; and landscaping of the grounds and gardens.
- 2.3 The application was subject to a legal agreement which secured:-
  - A financial contribution of £800,000 to meet the need for affordable housing
  - A financial contribution of £100,000 to meet the need for the provision of primary education to serve the development.
  - Phased construction to ensure restoration of Sanatorium and other listed buildings is undertaken in advance of some of the other enabling development.

It is important to note that the legal agreement required the owner to frontload the restoration of the key elements of listed buildings ahead of the construction and sale of the private new build dwellings. The agreement required the implementation of a restoration scheme which included works to the Chapel. In addition the Agreement required the owner to carry out all future maintenance of the listed buildings to a standard equal to the works comprised within the restoration scheme.

The owner also was required prior to completion of the first private dwelling to form a management company for the purposes of being responsible for the future management of the listed buildings. This also required that, within the legal documents for each sale a mechanism be included to ensure the purchaser would equitably contribute to the service charge to pay for the future management and maintenance of the Chapel.

Other agreements in relation to the park and grounds and sustainable transport measures were also included in the legal agreement

- 2.4 A number of further applications have been submitted for mainly non-material amendments to the original permission and some listed building consents for additional alterations/amendments to the original scheme. of particular relevance to this application are the following approvals:-
  - SDNP/15/02213/FUL Change of use of land previously consented for 79 assisted care living units (C2) and a redesign of 1 private residential dwelling (C3) under 11/03635/FUL to 54 residential units (C3) including underground and surface parking, access roads and drives, landscaping and associated infrastructure. Approved 11 January 2016 (this application relates to Superintendents Drive, but given the accompanying application being considered, it is considered to be of relevance).
  - SDNP/16/06393/FUL - Replacement extension (demolish existing) and change of use of chapel for

shop, cafe, swimming pool and ancillary leisure/communal facilities. Approved 21 April 2017

SDNP/16/06394/LIS- Replacement extension (demolish existing) and change of use of chapel for shop, cafe, swimming pool and ancillary leisure/communal facilities (Listed Building Consent). Approved 21 April 2017

### **3. Proposal**

- 3.1 The application seeks permission to construct 93 apartments in 10 buildings together with an additional building in the centre of the site for ancillary facilities. The buildings would be located in a north westerly to south easterly direction within the site with parking provided to the front and rear of the properties and landscaped areas between each building.
- 3.2 This application is for residential dwellings falling within the standard use class of C3, however the applicant clearly sets out that the dwellings will be marketed specifically in relation to 'assisted living' providing properties for prospective purchasers over the age of 55. The 'offer' for the residential development would include various services that the resident could purchase as part of their package. In addition, the applicant confirms that the securing of a use for the Chapel would form part of the assisted living package.
- 3.3 The original approval for the site made provision for 44 properties within this location of the site. This included a group of terraced dwellings along the boundary with Kings Green, partially to mirror the terraced dwellings in the Kings Green west Zone and provide a strong frontage of uniformed terraced development facing onto Kings Green and essentially towards the sanatorium. The original approval also included an apartment of 14 flats in the southern corner of the site. Elsewhere in the site the additional dwellings were detached with detached garaging. A small parking area for the apartments was located to the immediate north east of the building.
- 3.4 This application is inextricably linked to the current application also being considered at committee for the area within the development known as Superintendents Drive (SDNP/19/03903/FUL). Both developments are being sought as further 'enabling development' to justify the grant of permission and are for 'assisted living'. The position of the applicants is that whilst previous planning permissions have secured necessary external refurbishment works to the Chapel building, there is still a need for remaining internal refurbishment works to be carried out and a permanent use for the building, which they believe could be secured if permission were to be granted for its proposals. Their justification is that earlier development phases of the site achieved funding of works which repaired much of the fabric of the Chapel, however funding was insufficient to fund all works to prevent certain maintenance issues or to secure the viable future of the Chapel.
- 3.5 Enabling development was the whole premise upon which such significant development was originally approved in 2012, to ensure the restoration and retention of the heritage assets within the estate.
- 3.6 A significant amount of the restoration work has been completed, primarily in the main sanatorium, but also in relation to the restoration works of the chapel. Work is currently underway in relation to the Nurses Accommodation Building, which is curtilage listed. The only remaining assets which require some significant works are the Engine Room Building and the Motor House building. The applicant is putting forward the current proposals on the basis that the original expectation of restoration and a use for the Chapel as a restaurant/café has not been realised with the original developers having had difficulties in finding an end user to operate from the site. This was evidenced in the submission from City and Country in 2017 for the addition of a swimming pool to the Chapel in order to generate greater marketability of the building.
- 3.7 The applicants consider that their two developments and particular offering of 'assisted living' are the only realistic prospect for a permanent use of the Chapel. Whilst restoration works have been carried out to the Chapel (and the Historic Buildings Officer is content with the works carried out), technically the building will remain on the 'At Risk' register. This is due to the fact that the building is still not in permanent use. Whilst there is not currently an end user for the Chapel, the swimming pool is open to residents and in operation. Also the original Section 106 Agreement requires the owner to maintain and upkeep the building (irrespective as to whether there is an existing end user.)
- 3.8 Therefore the use of the Chapel remains an inherent part of the proposals (along with the other application for Superintendents Drive – SDNP/19/03903/FUL).

## 4. Consultations

### 4.1 Archaeologist – Comments

- The development would likely affect the setting of the Grade II Park and Garden that is located immediately to the south east but would defer to any advice offered by Historic England.

### 4.2 Dark Skies – No Comment

### 4.3 Design – Objection

- The transition to masterplan did not meet the initial expectations, and the connection between the evidence based idea and the final design was lost.
- The amount, scale and massing of the proposals does not respect basic architectural and urban design principles.
- The amount of built form and siting of buildings, and because of its inappropriate scale and bulk, would introduce a discordant addition to the original masterplan. The proposed amendment does not integrate with or sympathetically compliment the landscape and historical setting of the King Edward VII Estate.
- Amount of development is inappropriate, the resulting proposal having long lasting detrimental effects on landscape amenity for the local community. An over-reliance of in-front of plot parking, creating wide streets dominated by parked cars; also causing an unsatisfactory hierarchy of streets and spaces. The green links, the hierarchy of connections and spaces, are lost amongst the chequerboard grid of built form, parking and highway infrastructure.
- The absence of a comprehensive visual appraisal to support the chequerboard configuration and scale of built-form, and equally to ensure those concerns would have no serious adverse effect on significant views into or out of the site, is not addressed. The configuration and the height and bulk of the buildings, along with the change of levels will create an overbearing and unsightly development, also making it difficult to find your way around.
- The use of identical or similar building design has no benefit to the overall architectural identity of the scheme. It would cause significant and long term harm to the character and appearance of the area.
- Contrary to design advice within the NPPF and the Local Plan. Concern about the accumulative impact additional enabling development may have on landscape and heritage assets, therefore these comments should be read in conjunction with landscape and conservation comments.

### 4.4 Drainage - Comments

- Surface Water Drainage: The proposed means of surface water drainage through the use of on-site SuDS features (such as permeable paving) which then in turn have the ability to discharge into the wider King Edward Estate developments SuDS infrastructure is acceptable in principle.
- On-site infiltration should be utilised to the maximum extent that is practical (where it is safe and acceptable to do so). Wherever possible, roads, driveways, parking spaces, paths and patios should be of permeable construction.
- Flood Risk: The site falls within flood zone I (low risk).
- Potable Water Supply: It is understood that there have recently been discussions between City and Country and South East Water regarding the current and future supply of potable water to the wider developments private potable water distribution network. Would suggest South East Water are consulted to ensure that they are comfortable with any additional demand that would be generated by this development.
- Clarification should be sought as to the how the private potable water supply will be managed within and beyond the red line of this application.
- There should be a clear understanding about where responsibilities lie in relation to the routine repair, maintenance and management of the water supply infrastructure (pipework etc.)

#### 4.5 **Easebourne Parish Council – Object**

- The Parish Council has received an unprecedented volume of correspondence from residents detailing their concerns and objections.
- Major concern is the somewhat cosy expression of an ‘enabling development’ in connection with the Chapel. The Parish Council wonders how many ‘enabling developments’ are required across the site to complete the promised works to the historical buildings.
- How can permissions with conditions be granted to one developer and then effectively handed on when they have procured the most profitable elements, to another developer, creating a patchwork of incoherent buildings and car parks in a National Park?
- Where is the narrative in this development? Where is the focus of creating a cohesive community?
- The work on the Sanatorium building has been well executed, however the Parish Council have lost confidence in City & Country.
- An unsustainable location, without facilities, or easy to access public transport. /the nature of the location has attracted people who are retired and becoming older and the number of those unable to drive can only rise, leaving people without access to shops without walking over a mile on a raised uneven verge alongside an unlit road with fast moving traffic to reach the bus service.
- Not well served by private hire taxis.
- The Parish Council has continued to ask when public transport will be introduced, to be told the 50% of new build has not been reached. The Transport Statement claims that it is possible that demand for bus services will increase due to the ongoing development across the estate and that bus services would be reinstated by the Local authority. With increasing cuts in West Sussex bus service support from the County Council due to reduced financial resources and the bus company being unlikely to wish to fund this activity, this statement is somewhat misleading and much nearer to an untruth.
- As for the Travel Plan, never was anything such a tick-box exercise, undertaken to meet a requirement of obtaining planning permission, for which there was clearly no genuine intention of implementation. Incomprehensible that a development for people over 55 years can be thought appropriate.
- Urban style flats are considered not in keeping with the historic buildings they are so close to, or even existing new dwellings, or to compliment the surrounding natural environment.
- Other issues cited by the Parish Council submitted for SDNP/19/03903/FUL regarding volume of traffic, issues with water and water pressure should also be noted for this application.
- Already significant parking issues and the Parish Council is mystified that 1.07 spaces per dwelling appear to have been allocated to this specific development.
- Historic buildings on the site are some of finest examples still surviving, and this development is in a National Park which residents should be proud of and visitors delighted by. Let it not become a national disgrace.

#### 4.6 **Ecologist – No objection subject to conditions.**

#### 4.7 **Historic Buildings Officer –Comments**

- In agreement with Design and Landscape colleagues, but develop a few points related to the relationship of the newly proposed blocks with the listed buildings and their setting.
- The original scheme layout amounted to a ‘masterplan’ of sorts – whether or not it was specifically described as such in 2011. Have circumstances changed so much on this site that a complete departure from this originally conceived development layout is required? If one views a figure plan of the development as a whole, always a revealing insight to the broader development context, it is evident that the proposed blocks will adopt considerably heavier and wider footprints than any of the original buildings, which tend to be long and narrow in span.
- The original scheme sought to respond to the setting of the North side of the Listed Building by adopting a light-touch Classical idiom, almost certainly following the precedent of the Neo-Georgian Nurses Home of 1939-41, now under restoration.

- Buckler’s Hard on the Beaulieu River was another design influence quoted in 2011 (for the terraced cottages) and the neo-Georgian RAF architecture adopted for pre-war air stations may have been another – a different type of earlier C20 institutional use. While it is fair to say that both these references are a little random, one side of the Green will indelibly reflect the original approach, as it’s already under construction. The other side of the Green won’t.
- Proposal doesn’t obviously respond to its fairly close relationship with the listed complex. Instead of addressing the setting of the Listed Buildings by developing a ‘conversation’ of sorts with the new development. It relies upon the inherited tree screen to the South of the new blocks to protect outward views from the entrance of the Sanatorium. Accordingly, it is necessary to consider whether this relatively narrow belt of inherited and partly plantation planting is sufficiently robust to screen the new blocks, which will be considerably taller than the houses originally planned?
- Additionally, can it be consolidated satisfactorily with new planting to create a long-term visual barrier, or might we actually be looking at a start-again-from-scratch scenario? If the latter, some fairly searching arboriculture advice would be needed and might potentially need to accept an extended period where the screen was only partial, with potential harm to LB settings.
- Such harm would be ‘less than substantial’ in the parlance of the NPPF, but potentially significant, given the scale of the proposed buildings. Harm would, of course, need to be balanced against the public benefit of restoring the listed Holden Chapel to beneficial use.

#### 4.8 Historic England – Comments

- At time of the original permission stressed that it was vital that an enabling scheme of this kind, which causes some harm, adequately addresses the conservation deficit and is therefore a viable scheme which will achieve the benefits proposed to balance that harm.
- A condition report for the Chapel has been included but no detailed workings appear to have been provided of the proposed (outstanding or new) work to the chapel, the costs of this, how this differs from that previously assumed and why additional cost has risen.
- Historic England’s published guidance (enabling development and the conservation of significant places 1999) lays out clearly the considerations which are vital in allowing the effect of enabling development to be assessed. Section 5.4.4 states *“Taking an incremental approach to enabling development, in which additional enabling development is sought once the scheme is underway or completed, as a means of recovering unforeseen or underestimated costs, is not an acceptable practice. Such an approach distorts the process, because it is necessary to consider the effects of the enabling development proposals in their entirety before deciding whether the benefits outweigh the harm. The developer bears the risk – there can be no ‘second bite at the same cherry’.*
- Not considered that the scheme is likely to considerably increase harm to registered assets compared to the consented scheme, but is considered that a small harmful effect is likely to arise from it due to increase in density and reduced landscaping. Any further harm will be caused by this scheme should be considered not only within the NPPF policies on harm to heritage assets, but also alongside the above points regarding enabling development, given the existing permission was presented as sufficient to address the conservation deficit and allow full restoration of the Chapel.
- A key concern is the future of the Chapel as a vulnerable Grade II\* building, which was intended to have been addressed by the initial scheme. Although considerable repair works have been completed, the condition of the Chapel is presented as being linked to the need for revisions. If the revised scheme is indeed linked with the Chapel restoration, it would be expected for the details to be clearly laid out at this stage.
- If the Authority considers that harm is low, and justification is convincingly shown by the proposals, it is vital that any works required to the Chapel are clearly laid out and secured by legal agreement, with the aim of enabling the removal of the Chapel from the Heritage At Risk Register.

#### 4.9 Highways – No objection subject to conditions

- **Access and Visibility** - The RSA has not shown any issues with the proposed access arrangements.
- The applicant has undertaken a speed survey indicating speeds are under 30mph along Scotland Lane. The TS adoption of Manual for Streets parameters of 43 meters are accepted. Vegetation will need to be removed to achieve the splays which would be acceptable subject to condition.
- The LHA is satisfied that each access is operating safely and no concerns would be raised in relation to the proposal.
- **Capacity** – The applicants TS establishes there would be 2no defined peak hours, one being at 0800-0900 and another at 1800-1900. An overall vehicular trip rate of 334 daily movements would be expected. Compared to the agreed trip rates this would see a small increase and would not warrant a concern on capacity. The LHA are satisfied that the additional movements would not have a severe impact on the adjoining highway network in line with Paragraph 109 of the NPPF.
- **Accessibility** - Previously the LHA had raised the point about the sites location and accessibility. It is however acknowledged that within the KEVII development there are community facilities which could be utilised by prospective residents. Outside of the site the area is not well served by public transport and the location of the site does not have key services and facilities within reasonable walking distance. The nearest public bus service is the No. 70 which stops on the A286 at the junction with Kings Drive. These bus services link the site to Guildford, Goldalming and Haslemere. Haslemere and Guildford provide train services to London and Brighton. Previous commercial services 91 and 92 ceased operation in October 2011.
- To improve sustainability at the site, the applicant has developed a revised Travel Plan, based around the approved 2011 version. The LHA has advised a suitable condition.
- **Parking and Layout:** As the parking spaces were agreed at the pre-application phase the LHA would not raise a concern with the 100 spaces proposed. In terms of parking layout the applicant has demonstrated that parking can take place within the site.
- **Construction** - Comprehensive construction management plan would be sought through condition should permission be granted.
- **Conclusion** – NPPF states development should only be resisted on transport grounds when the residual impact is considered to be ‘severe’. The LHA considers that the proposed would have not ‘severe’ impact on the operation of the highway network and there are no transport grounds to resist the proposal which would be defensible at an appeal.

#### 4.10 Landscape – Neutral Comments

- The final layout appears to be at odds with the concepts and the implications of this are primarily around design, quality of spaces and historic buildings.
- A significant amount of work has gone into the design of the green spaces, these have been put together in a really thoughtful way and their quality and in particular the amenity they provide would be high.
- The layout however – the spaces and their relationships to the buildings and roads is the main concern and how (and if) it demonstrates a landscape-led approach to design.
- The conceptual stages of the process are clearly thought through and the scheme has been worked up around a Landscape Strategy derived from securing a mosaic of green spaces. These spaces have been chosen to deliver the most diverse and interesting range of environments for residents, as an approach it is strongly focused upon GI and would no doubt deliver benefits for people and wildlife.
- Whilst absolutely not at all a bad aspiration to have in terms of place-making, it is difficult to understand how the *existing* landscape has inspired this approach. Having said this, the mixed character of open spaces the scheme provides is typical of what is expressed elsewhere on the site, from the formality of the planting adjacent to the sanatorium to the small remnant semi-



natural habitats, so in a general sense the scheme is reflecting what exists already – but perhaps putting too much into a single site.

- Trees in the proposal are subservient to buildings – in reality, trees dominate over buildings at this site. This is a strong characteristic which also helps to break up the long-distance views of the scheme from the Downs.
- In relation to trees, concerns remain of the viability of the pines on the boundaries of the site in the long-term and little effort is included in the current scheme to provide a long-term alternative.

#### 4.11 **Local Lead Flood Authority – No objection**

- Flood Risk Summary: Current surface water mapping shows that the majority of the proposed site is at low risk from surface water flooding.
- Any existing surface water flow paths across the site should be maintained and mitigation measures proposed for areas at high risk.
- Modelled Groundwater Flood Hazard Classification: The area of the proposed development is shown to be at low risk from groundwater flooding based on current mapping.
- SUDS: The Surface Water and SuDS Statement states that permeable paving, swales and attenuation would be used to control the surface water runoff from the site. This method would, in principle, meet the requirements of the NPPF and associated guidance documents.

#### 4.12 **Natural England – No objection**

#### 4.13 **South Downs Society – Objection**

- No decision should be reached until details of the original permission and its conditions are published.
- Given the isolated nature of this unsustainable site, the lack of transport, facilities and distance from routine and emergency medical facilities, the concept of a retirement village is deeply flawed.
- It seems the SDNP and local residents are being presented piecemeal developments. There is no link to the original design concept. These proposed developments are not cohesive or conducive to community living and could create a two-tier system. Buildings do not integrate with either the King Edward Sanatorium or the other new developments.
- No further permissions should be granted until the site minibuss service is implemented.
- No public transport. The walk to the bus stop along Kings Drive does not have a footpath.
- The Trip Survey states a total of 334 trips are anticipated per day, based on 7 movements per day per car. The proposal of 93 units will be at least 651 movements. The transport forecast should be resubmitted.
- Proposal will generate significant increase in traffic on the junction of Scotland Lane, Kings Drive and Superintendents Drive and further trip survey should be placed on the Kings Drive/Brackenwood Junction.
- Given the Sanatorium is truly outstanding the proposal should be of exceptional quality. Latest plan delivers none of requirements of Policy SD5.
- This development in Heritage parkland is disproportionate, intense overdevelopment.
- No fluidity of design with other buildings. Overbearing impact on design of whole site.
- No true landscape buffer between the development and Scotland Lane.
- Architect is more concerned with internal design than the external and the contemporary style build looks more like student accommodation.
- Density would increase. Knock-on effect increasing human footprint in isolated rural area.
- Consider that an update on the S106 agreement and what progress on its implementation has been made is important.
- No further permission should be granted without a sustainable transport system being available to existing and potential new residences. (NPPF Para 110 a) and c)).

- Applications must embody the SDNPA Climate Change Adaptation Plan and be required to submit zero carbon scheme.
- Provision should be made for EV Charging facilities and net biodiversity gains.
- No further permission until the water authority can confirm that adequate water supplies can be provided to accommodate new homes.
- Society supports the Historic England remarks. In addition English Heritage wrote in SDNP/13/01455/MPO to express concern about recurring applications of this nature becoming routine. Now 6 years on and various applications continue to reoccur without any overall plan to protect the Chapel, ensure the maintenance of the woodland ridge landscape, harmonise with the setting of the restored Sanatorium building and treat sympathetically the Grade II listed park and garden.
- Concerned in relation to the SSSI and rare ground nesting birds such as nightjars and Dartford Warblers, These are particularly vulnerable to walkers and dogs and cats. If these birds are disturbed during nesting season they will often not return to the nest. Please would the SDNPA consider measures to ensure walkers keep to footpaths and dogs are kept on leads?

#### 4.14 **South East Water – Comments Awaited**

#### 4.15 **Southern Water – Comments**

- Advice provided in relation to Informative about Sewerage and Suds

### **5. Representations**

5.1 Letters of objection from 55 residents, groups of residents and steering groups (In some cases multiple letters have been received from individual residents during the process and in response to further information submitted from the applicant). A summary of the comments are outlined below.

#### **Highways/Access/Parking:**

- Provision of 100 spaces for 93 dwellings is inadequate. Private vehicle ownership will be essential.
- No realistic provision for service related vehicles. No provision for parking for personnel, or for health visitors/domestics etc.
- Roads not safe for cyclists, despite provision given for cycle storage
- Concern in relation to no snow removal undertaken by estate owners on Scotland Lane.
- Concerns about Transport Statement in relation to capacity. Consideration has not been given to the likely usage or possibly the development is not going to be target at age restricted residents.
- Measurements should have been taken in Kings Drive as opposed to Scotland Lane.
- Parking problems further exacerbated
- Travel Plan – Without a comprehensive bus service, single occupancy car trips will increase with increased number of properties.
- More congestion on Kings Drive and the A286.
- Increase in traffic along Superintendents Drive.
- Original application survey stated traffic would be no different to when the hospital was operating. Not true. On-line deliveries and shopping were not considered. During a 30 minute walk along Kings Drive at least 20 delivery vans were counted.
- Pavement along Kings Drive needed to protect walkers.
- Kings Road is dangerous already.
- Consider statistics quoted by Probitas for car ownership are unrealistic.
- Trip generation recording was positioned away from Kings Drive over a weekend at the beginning of the summer holidays.
- Increased footfall along Kings Drive with no footpath/pavement.

### **Quantum of Development:**

- When permission granted in 2011, planning officer said “there will be no more houses allowed on this site”. Need to stand by words and refuse the application.

### **Enabling:**

- Application in breach of English Heritage Guidelines on enabling development (2008) and policies in the Local Plan.
- City & Country confirmed in Newsletter in 2013 that S106 would better secure the future of the Chapel and Sanatorium, without any further significant investment in funds. Hard to understand how anyone could claim further enabling monies.
- No justification for increase of dwellings on basis of being enabling development for the chapel restoration.
- Design and Access Statement for SDNP/16/06393 confirmed building was in a condition to extend its beneficial use in the decades ahead. This implied only fitting out was now required, rather than works to preserve the building.
- Enabling development was not referred to in Application SDNP/19/02395/CND.
- Information in Design Awards for SDNPA mentions that Sanatorium and Chapel have been carefully and sensitively restored.
- Planning Statement infers that various listed buildings have not yet been refurbished and applicant understands there are no plans to complete the works by C & C.
- Made clear that permission and the S106 runs with the land and not the applicant.
- Accountability required In relation to use of previous enabling funds for the chapel to ascertain if this application is a ‘second bite at the same cherry’.
- Concern if chapel is opened as a substantial restaurant attracting noise within a densely populated area.
- Authority will have to examine whether the remedial work has been carried out satisfactorily.
- Minutes of a Probitas meeting with residents said that the chapel can only work commercially if the estate residents use the facilities and the Kings green east residents and Superintendents site is granted approval, it will be these residents who will support the running costs of the facilities.
- Concern raised that residents will be responsible for maintenance and upkeep of the Chapel building (as informed by Encore). Surely in the S106 there would have been a secure arrangement in place whereby the ongoing management of the Chapel was to be assured.
- Uncertainty as to whether Probitas will also take on management of swimming pool.
- Documentation appears to infer that enablement should be used to fund the ‘fitting-out’ of the Chapel as a restaurant/club room.
- There could be more viable uses for the Chapel.
- The scheme is purely financial and target driven.

### **Viability:**

- Concerns that the decision has been made to proceed with the scheme in the hope that the economics of the scheme will improve over the lifetime of the development.

### **Design/ Landscaping / Trees:**

- The principal materials together with the Swiss chalet roof line, contemporary chimneys, uniformity and density of block layout and banks of parking mean the overall appearance is akin to a university campus, retail/office park or open prison.
- Nothing suggests the development is on the site of character heritage buildings of architectural importance.
- Density of buildings together with parking bays and wide roadways result in net loss of green space.
- Fails to compliment the rest of the Kevll development and surrounding area.

- Large number of mature trees felled to prepare for this development without any acceptable plan for replacement planting. Contrary to Policy SD4.
- The view presented of the development from Scotland Lane is misleading. The proposed visibility splay would be much wider and more visually revealing.
- The roof lines of the buildings would overlook and detract from the approach to the Sanatorium along Kings Drive.
- The density and regimentation of the build will eclipse the natural background of the landscape.
- The roof line will be clearly seen from the Heritage Assets.
- Design at odds with the traditional character of Pines Walk and Brackenwood.
- The proposed green planted areas are small compared to the areas covered by buildings, hardstanding etc.
- The development will have ranks of cars visible.
- The Chapel is not suitable for a pub and restaurant.
- Urban density in an AONB. Layout is dominated by parking. Significant departure from original plans.
- Lack of parking will result in parking on the streets in the Estate, breaking the rules of a covenant owners have signed up to.
- Density is quite unsuitable in this location.
- Poor quality design, not contributing to the Estate and not landscape-led.
- Substantial loss of landscaped areas from previous approvals.
- Lack of space for adequate planting.
- Design incompatible with original aims for Estate development. Concerns about cumulative development due to areas of estate sold off.
- The Planning Statement on 11/03635/FUL mentioned secluding development from the Kings Drive approach and creating a recognizable place of identifiable character that maintains a relationship with the building typologies around the main sanatorium and Kings Green.
- Applicants refer to Cala Estate but have been selective in reporting of facts. Could be interpreted as Cala flagrantly altering the building designs.
- DRP comments did raise concerns with regard to proposal and have not been acted upon by the developers.
- The choice to utilise 'Net Sales Area' data to calculate comparative footprint areas confers a distinct advantage to the proposal.
- Concerns about applicant statement that height is no different.
- Original plan sought to hide car parking. Disagree with applicant assertion that there is a prevalence of on-street parking within the wider estate.

**Ecology/Wildlife:**

- Increased pressure on wildlife in vicinity

**Neighbouring Amenity:**

- The 3 storey design would impinge the privacy for the Hurst Park Approach.
- General Light pollution.

**Matters relating to delivery of other services on Estate:**

- Increased impact on medical services.
- Original S106 listed a doctor's surgery to be present on the site, but this has not been enacted.
- Accommodation for 55 years + will increase need for emergency care, thus providing parking/access issues when this happens.

- Syngenta application includes comment from Savills Health Care Team that, due to the distance from amenities, the site is not considered suitable for a retirement village.

#### **Water Supply/Infrastructure:**

- Concerns about water supply that is already under pressure on the Estate.
- Utilities statement – Reservoir is only half a mile away and is a holding/balancing tank with a single chamber serving the Estate and Hurst Park. Ongoing issues since 2002. Concerns re capacity of reservoir to meet existing or future needs, resilience of infrastructure and capabilities of C & C to manage for the long term.
- Hydrock report of 2018 states that reservoir provides 5 days storage. This will drop to 2 days when development is complete. Any overbuilding will render supply inadequate.
- Drainage Engineer and Southern Water have requested further information. Would appear both have serious concerns.
- Dispute the Hydrock capacity assertion. Additional factor: Since the reservoir on Scotland Lane is only refilled at off-peak times, the water level could be well below optimal if there is a pump failure at the end of the pumping cycle and this would result in a significant reduction of the residual water volume available for distribution.
- Any assessment should focus on actual number of residents, as well as number of bedrooms.
- Utilities report is lacking in substance.
- Properties at a higher altitude have experienced extended periods of low water pressure and water outages at times of peak water usage.
- Would expect the SDNPA to consult SE Water and residents in respect of applications and supply of potable water, seek clarification as to how it will be managed within and beyond the red lines, and ensure there is a clear and contractually binding agreement about where responsibilities lie.
- Drainage and Southern Water have raised issues in relation to Drainage and Suds.
- Hurst Park Residents use on average 14,500 litres of water a day. Once the development is complete the reservoir will hold 2 days' supply.
- Daily requirement of 1150 people is 204,700 litres from a tank of only 280,000 litres. For an estate of 1150 people the water should surely be supplied from the mains rather than a gravity fed water supply.
- Concern that there is adequate water supply if there is a fire on the estate.

#### **Other**

- Question demand for this type of housing given unsustainable location
- Lack of pre-application engagement by developer.
- Concerns as to suitability of applicant to undertake this complex development.
- Concern about deadline for submitting comments
- Benefits do not outweigh the public offer.
- Query about reluctance of applicants to pay CIL.

#### **5.2 Letter of objection from Dowsett Mayhew Partnership on behalf of 22 residents**

##### **Enabling:**

- Piecemeal fashion in which site has been developed and amendments applied for has made it difficult for interested parties to keep track of. Not clear whether S106 requirements have been complied with nor how monies deposited in escrow to fund restoration have been spent.
- Enabling development should be minimum necessary to secure the future of the place, its form should do no harm to other public interests, as well as being necessary to resolve problems arising from the needs of the place, rather than circumstances of the owner or the purchase price paid.
- Although S106 required works of restoration to the Chapel, it is not clear how its long term viable use was secured.

- The chapel was intended to be converted to a shop and café in the 2011 permission. It does not appear that a strong business plan for the long term viability of the Chapel was proposed at the time. Supporting documents not clear as to whether this would comprise a private facility for residents of the scheme or a destination restaurant open to the public.
- S106 required early completion of restoration of the Chapel.
- Not clear whether Authority have monitored the completion of the Chapel works and whether the S106 has been complied with. In any event it is vacant and not in optimum viable use.
- Swimming pool is in use now but chapel remains vacant.
- Not clear why the chapel works were not carried out as a single operation.
- Although the applicant puts forward the development as a means to deliver the Chapel conversion, there is no certainty that this will be a viable facility in the long term.
- Unlikely that dwellings within the estate will generate sufficient footfall to support a shop and café. Conversely given the location, if the Chapel were to be a destination restaurant, this would generate additional vehicle movements and parking demand.
- A co-operative café and multi-use community space could be explored.
- No secure mechanism to secure delivery of an appropriate viable use for the Chapel.
- Details in the Viability report do not further explain or justify the cost of £2million.
- SDNP/16/06393 report stated that the Chapel building was in a condition to extend its beneficial use in the decades ahead, implying only fitting to serve a new purpose was required. Current planning statement is at odds in saying chapel is the only listed building that has not been converted or is not subject to applications to complete the renovations.
- If applicant is proposing the development as 'enabling' it should be accompanied by a definitive schedule of works.
- Does not state how the proposal will be linked to the chapel restoration and to the original S106 agreement. It is not clear whether the applicant has sufficient interest to carry out further works to the chapel.
- Discrepancies in the EVR. Appendix 3 identifies 18 dwellings permitted in the Superintendents drive area while Appendix 4 presents a cost plan for 6 unit assisted care unit development.
- Given this is a fresh application not linked to the delivery of the optimum viable use of the Grade ii\* building, there is no justification for additional dwellings as enabling development.
- English Heritage guidance confirms developers take on the risk with no mechanism for clawback if the financial outcome is better than expected and no expectation of further enabling development if it is worse than expected.
- A fresh application will not be bound by the requirements of the 2011 agreement jeopardising the long term link.
- The development cannot be consider as enabling development under Policy SD6. As such there is no justification for permitting a departure from the development plan.
- This application should be subject to a fresh S106 to secure benefits to the listed building, and other necessary infrastructure delivery.

#### **Layout and Appearance:**

- Increase of density to 52.5 per hectare compared to original 24.8 dwellings per hectare, resulting in a very urban density.
- The proposed high density 3 storey buildings are at odds with the aims and expectations of the original application to *“implement a semi-formal medium density cottage and house typology that is sympathetic in scale to the existing historic buildings and works comfortably with the gently rising topography of the site”* and *“to retain the King’s Drive as the one entrance to the historical centre of the site, and to carefully seclude development from views along this route, essential to preserve the sensation of sudden arrival at the Sanatorium embedded within its rural environment”* and *“to provide underground car parking below King’s Green to minimise surface area required for new development and reinvigorate the landscape”*.

- The terraced cottages were intended to line the east and west sides of Kings Green “*respecting the existing and creating a focus on the Sanatorium that closes the vista on the Green*”. The proposals remove the symmetry previously provided.
- The denser layout has an impact on the Lodge with the 3 storey buildings dwarfing it.
- The layout is not unique and does not contribute to the setting of the park and listed buildings.
- The buildings are closely spaced and areas between them dominated by hardsurfacing.
- Proposed landscape strip Hurst Park outside of the application site.
- Original plan to hide car parking in garages. Loss of such an approach results in more on street parking.
- Need for parking will result in need for more lighting.
- Proposal does not reflect a landscape led approach. Contrary to Policies SD4, SD5, SD8 and SD13

#### **Parking and Highways:**

- 100 spaces for 93 dwellings provided. Only 47 proposed to be allocated for residents.
- The Transport statement refers to WSCC parking standards for a C3 age restricted development, but this standard only refers to facilities with internal communal facilities and warden accommodation. This category is not appropriate to this development.
- Given that dwellings will be for over 55s there is no requirement for occupiers to be in need of care as per the original permission. Therefore considered a higher level of parking would be required.
- Unsustainable location for additional dwellings. Although a minibus service is to be provided this is once occupancy exceeds 50%. It is currently below 25%
- Provision of parking will result in on street parking.
- The proposed daily flows will exceed those generated by consented scheme and the pre-development site.
- Impact on vehicle movements close to a pinch point at the junction of Scotland Lane and Kings Drive.
- Should the application be permitted, it is requested that it is subject to a requirement that all internal roads used by traffic are made good on completion of the development.
- Impact on local medical provision is also a concern. No consultation with the local surgery. Location is some distance from emergency medical facilities.

#### 5.3 I Letter of Support

- Will enable the community facilities in the Chapel to be realised. Enhanced facilities will be of great benefit to all residents of the Estate.

### **6. Planning Policy Context**

6.1 Applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The relevant statutory Development Plan comprises of the South Downs Local Plan 2014-2033. The relevant policies to this proposal are set out below.

#### National Park Purposes

6.2 The two statutory purposes of the SDNP designation are:

- To conserve and enhance the natural beauty, wildlife and cultural heritage of their areas;
- To promote opportunities for the public understanding and enjoyment of the special qualities of their areas.

6.3 If there is a conflict between these two purposes, conservation takes precedence. There is also a duty to foster the economic and social well-being of the local community in pursuit of these purposes.

## National Planning Policy Framework and Circular 2010

- 6.4 Government policy relating to National Parks is set out in English National Parks and the Broads: UK Government Vision and Circular 2010 and The National Planning Policy Framework (NPPF) which was issued and came into effect on 27 March 2012. The National Planning Framework was subsequently updated in 2018. The Circular and NPPF confirm that National Parks have the highest status of protection and the NPPF states at paragraph 172 that great weight should be given to conserving landscape and scenic beauty in the national parks and that the conservation of wildlife and cultural heritage are important considerations and should also be given great weight in National Parks.
- 6.5 Paragraph 172 of the NPPF confirms that planning permission should be refused for major development in designated areas (such as National Parks), except in exceptional circumstances and where it can be demonstrated that they are in the public interest. Consideration of such applications should include an assessment of the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy, the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated. In this respect it is considered that the proposed development does not constitute major development for the purposes of the NPPF and policy SD3 (Major Development) of the South Downs Local Plan (2019).
- 6.6 The development plan policies listed below have been assessed for their compliance with the NPPF and are considered to be compliant with the NPPF.
- 6.7 The Environment Act 1995 requires National Parks to produce a Management Plan setting out strategic management objectives to deliver the National Park Purposes and Duty. National Planning Policy Guidance (NPPG) states that Management Plans “contribute to setting the strategic context for development” and “are material considerations in making decisions on individual planning applications.” The South Downs Partnership Management Plan **as amended for 2020-2025** on 19 December 2019, sets out a vision, outcomes, policies and a delivery framework for the National Park over the next five years. The relevant policies include: 1, 3, 9, 10, 38, 39, 40, 48, 49, 50 & 56
- 6.8 The Planning (Listed Buildings and Conservation Areas) Act 1990 places a series of duties on planning authorities when determining applications for planning permission that may affect listed buildings or their setting.
- 6.9 Section 66 (1) states that “in considering whether to grant planning permission for development which affects a listed building or its setting the local authority “shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”.

## **7. Planning Policy**

- 7.1 The following Policies of the Adopted South Downs Local Plan (2019) are relevant to this proposal:
- SD1 – Sustainable Development
  - SD2 – Ecosystem Services
  - SD3 – Major Development
  - SD4 – Landscape Character
  - SD5 - Design
  - SD6 – Safeguarding Views
  - SD7 – Relative Tranquillity
  - SD8 – Dark night Skies
  - SD9 – Biodiversity and Geodiversity
  - SD11 – Trees, Woodlands and Hedgerows
  - SD12 – Historic Environment
  - SD13 – Listed Buildings
  - SD16 – Archaeology
  - SD17 – Protection of the Water Environment
  - SD19 – Transport and Accessibility
  - SD20 – Walking, Cycling and Equestrian Routes



- SD21 – Public Realm, Highway Design and Public Art
- SD22 – Parking provision
- SD25 – Development Strategy
- SD26 – Supply of Homes
- SD27 – Mix of Homes
- SD28 – Affordable Housing
- SD29 – Rural Exception Sites
- SD33 – Sustaining the Local Economy
- SD42 – Infrastructure
- SD43 – New and Existing Community Facilities
- SD45 – Green Infrastructure
- SD48 – Climate change and sustainable use of resources
- SD50 – Sustainable Drainage Systems
- SD51 – Renewable Energy
- SD54 – Pollution and Air Quality

## 8. Planning Assessment

### Principle of development

- 8.1 In terms of broad principles of development, the application site falls in land designated as countryside in the Local Plan. Policy SD25 sets out the settlements within which the principle of development will be supported and exceptional circumstances where development outside the settlement boundaries might be permitted. In this respect, the development is not within a settlement boundary and nor does the proposal appear to meet any of the exceptional criteria outlined in part 2 of the policy (in that it is allocated for development or it is an appropriate re-use of a previously developed site).
- 8.2 Given the above, consideration must be given as to whether there are any other exceptional circumstances which are set out in the Local Plan that would justify this development. Policy SD12 confirms that proposals that would otherwise conflict with other planning policies but which would secure the future conservation of a heritage asset will be permitted, provided that the proposals will not materially harm the heritage values of the asset or its setting, it can be demonstrated that alternative solutions have failed and the proposed development is the minimum necessary to protect the significance of the heritage asset.
- 8.3 Perhaps most pertinently, the policy confirms that the scheme should address the matters set out in Historic England Guidance “*Enabling Development and the Conservation of Significant Places*”.
- 8.4 The Authority is of the view that the proposed development is being presented as enabling development on the basis that what is being proposed could provide greater public benefit relative to the public benefits secured through the earlier grants of planning permission. Whether the proposals do actually offer greater public benefit in that regard is ultimately a planning judgement for the Authority (and this is discussed further below).
- 8.5 The application site has had a long and complex planning history since the original approval for comprehensive enabling development in 2011 (SDNP/11/03635/FUL). The original development was approved on the basis of being the minimum development necessary to achieve the restoration of the heritage assets (namely the Sanatorium, Chapel, Engine Room, Motor House and the Nurses Accommodation). The development amounted to over 400 residential units together with the conversion of the Chapel to a restaurant/café shop. A significant amount of work has been undertaken to the Sanatorium with many flats now being occupied. The Chapel has undergone restoration/repair in accordance with the 2011 conditions and the S106 agreement and the Authority is content that the works that have taken place to fulfil such obligations. Future maintenance of the Chapel in perpetuity is therefore secured through the 106 agreement (as set out in paragraph 2.3 above). Work is currently being carried out on the remaining heritage assets by the current owners of those (City and Country).
- 8.6 It is clear that City and Country were having difficulties in securing an end user for the approved use of the Chapel, which is evidenced by the approval in 2016 to build an extension to the Chapel to provide a swimming pool (in order to make the building more marketable). It appears that such efforts

have not resulted in securing an operator for the chapel The Chapel has now been sold to the applicant together with the site which is the subject of this application and that for Superintendents Drive.

8.7 The applicant puts forward an argument that they are able to secure the long term use for the Chapel where others have failed, and that their development of the two sites will be the enabling development which can achieve this. They are therefore suggesting that they are not having a second bite of the cherry as referenced in the HE guidance, particularly given the view that the Authority have taken a 'strategic' approach at the outset by allowing a phased approach to be built out.

8.8 The Historic England guidance which considers enabling development states the following:-

*“Fundamental to the concept of enabling development is that the developer takes on the commercial risks, and the public benefits, particularly securing the future of the significant place, must normally be delivered at the outset. There is no mechanism for clawback if the financial outcome is better than anticipated; similarly there can be no expectation of further enabling development if it is worse than anticipated.*

*Taking an incremental approach to enabling development, in which additional enabling development is sought once the scheme is underway or completed, as a means of recovering unforeseen or underestimated costs, is not an acceptable practice. Such an approach distorts the process, because it is necessary to consider the effects of enabling development proposals in their entirety before deciding whether the benefits outweigh the harm. The developer bears the risk – **there can be no 'second bite of the same cherry'**. This does not of course, apply to a strategic approach (for example to an historic estate), which is agreed at the outset and implemented in stages”.*

8.9 In this respect, the original permission secured a complex S106 Agreement which ensured that the restoration of heritage assets within the wider site was arranged in order that the enabling development was not carried out in advance of the restoration. In this regard the Authority is of the view that the Agreement has been successful with the Main Sanatorium and the Chapel having been restored, and works currently being undertaken in relation to the remaining assets.

8.10 In particular the Historic Buildings Officer has continued to monitor the condition of the Chapel. Whilst there are clearly elements that may require attention soon, which would be part of the future maintenance of the Chapel, the condition report submitted by the applicant is considered to be somewhat overplayed.

The S106 legal agreement in 2011 secured a requirement on the owner to “carry out future maintenance of the Listed Buildings following good conservation principles which shall include selection of materials, the skill of craftsmen, and the quality of work, all of which shall be of a standard equal to the works comprised within the Restoration scheme”. The owners therefore are bound to carry out future maintenance of the Chapel, irrespective of whether the use as a restaurant/café are realised and purchased the site with this inherent risk.

8.11 Whilst the building continues to be on the Historic England 'Building at Risk' Register, this is in the absence of a long term user for the site. Notwithstanding there is a requirement (for which the Authority could enforce) for the owner to continue to maintain the building. Likewise, the legal agreement required that the owner provide within legal documents for each sale of dwelling units that each purchaser shall equitably contribute to the future management and maintenance of the Chapel, gardens and park.

8.12 So, even in the absence of an end user (which the Authority believes is unlawful to secure through a Section 106 agreement), the building will continue to be maintained. The judgement for the Authority is therefore whether there is greater public benefit through this proposal relative to the 2011 grant of planning permission which justifies the grant of planning permission. In this respect, whilst it could be considered that the applicant's intentions are honourable, the draft heads of terms for a section 106 agreement proposed by the applicant do not provide an express obligation that goes beyond those in the original 2011 agreement or secure a future use of the Chapel.

8.13 As an added matter, it must be acknowledged that the developer has provided figures in terms of works needed to convert the Chapel that demand closer scrutiny. The Historic Buildings Officer has raised concern that the schedule of works/income required seem somewhat exorbitant and appear to relate not to restoration of the Chapel, but more predominantly to that needed for its eventual use as

a restaurant, which would appear to exceed that which should be required for pure enabling development.

- 8.14 It is also a concern that the proposed scheme would still involve a significant element of risk in that the figures show a potential deficit of some significance. Whilst the applicant has confirmed a willingness to take such a risk, there remains concern that the proposals seek enabling development as a second bite of the cherry, and that the benefits of an end user for the Chapel do not outweigh the disbenefits of such additional development (and in any case, the benefits cannot be secured with any certainty). Therefore the risks would appear to be significantly high with little certainty in the end game being achieved.
- 8.15 It is recognised that a use, and ideally the optimal viable use, should take place within the Chapel. The future of the Heritage Asset is, however, already secured under current arrangements.
- 8.16 Therefore, in conclusion, it is not considered that the principle of development is considered acceptable and is contrary to both Policies SD12 and SD25 of the Local Plan and also contrary to the Historic England Guidance “Enabling Development and the Conservation of Significant Places (2008).

#### Affordable Housing

- 8.17 Given that it has been concluded that the development is not justified in terms of ‘enabling development’ the only residential dwellings which might be acceptable in principle would be exception housing to meet local need. In this respect no affordable housing is provided and the application is considered to be contrary to Policy SD29 in this respect.

#### Landscape, Design & Layout

- 8.18 The original approved plan for the development of this part of the site was an integral part of the masterplan for the whole site. In particular the developments on the east and west of Kings Green set out to somewhat mirror each other with a strong building line and frontage onto the Green. Therefore on each elevation there was a predominance of terraced properties with a flatted development within the Kings Green East phase at the southern part to link in with the Nurses accommodation building opposite. Whilst there is naturally a somewhat strong element of landscape screening along the boundaries to Kings Green, the intention was to provide filtered views of the strong building line behind, thus framing the view of the Green from the Sanatorium.
- 8.19 The applicants have put forward a more contemporary design with 11 no 2.5 storey buildings which are orientated in a south easterly direction to maximise solar gain. The buildings would be constructed in brick sections at ground floor level with sections of clay tile and cedar hanging interspersed with large glazed windows and bays. The third floor would be set back from the building edge and would be clad in red cedar with a clay tiled roof.
- 8.20 The development includes informal amenity space interspersed throughout the development between buildings as well as private terraces/balconies to each apartment. This differs from the approved scheme which included private gardens.
- 8.21 The 2 existing accesses onto Scotland Lane would continue to be utilised as part of this development. Refuse collection from the buildings would be privately managed with residents taking their refuse to stores outside their buildings, and then taken by the development management company to a communal refuse storage area in the south eastern corner of the site.
- 8.22 100 parking spaces would be provided in bays across the front of each building. 47no cycle parking spaces would be provided within an internal store.
- 8.23 The proposed move to larger blocks of buildings firstly would result in a development that would lose the planned symmetry of built development looking onto Kings Green. Whilst it is acknowledged that the screening somewhat prevents a full appreciation of the symmetry, filtered views would still confirm this. The proposed development would introduce a group of 5no buildings punctuated by gaps between them that would jar with the dwellings opposite and would appear overbearing in this respect. They would also introduce a discordant feature when viewed in relation to the Sanatorium and would adversely affect the setting of the sanatorium in this respect.
- 8.24 The buildings, whilst having some elements that would link to elsewhere by way of materials, would still appear alien by virtue of the massing and bulk, which does not appear to take any notes from

development elsewhere within the Estate, or some of the original inspirations referenced in the Historic Building Officer comments.

- 8.25 It must also be appreciated that the original approved development sought to ensure that the height of buildings within this zone did not exceed that of the trees along the boundaries. Whilst the applicants contend that the tallest building within the proposed development is no higher than the tallest building approved as part of the 2011 development, there is a general increase in height across the site. It must also be acknowledged, that whilst the actual height of some of the buildings are indeed comparable to those approved in 2011, the proposed buildings generally tend to be higher with shorter chimneys than those on the earlier approved buildings, thus providing more building mass in height across the site. The proposed buildings with their increased mass/height would begin to edge above the tree line and would appear overbearing in this respect.
- 8.26 Within the site itself, the buildings would be dominated by parking to the forefront with little softening by way of landscaping. The staggered nature of the buildings throughout the site would mean that certainly from north to south views would be through to the other buildings as opposed to any landscaped vistas. Conversely the vistas in an easterly westerly direction would be limited predominantly to roads, parking and limited landscaping.
- 8.27 It is therefore considered that the development has not been informed by a landscape led approach and would result in a discordant development at odds with the general surrounding character by virtue of the increased mass and bulk of the buildings, loss of the strong developed edge on the western part of the site, and the resultant predominance of car parking due to the increased density within the site. The proposal is therefore contrary to Policies SD4, SD5 and SD12 of the Local Plan. In addition, it is considered that the proposal would adversely affect the setting of the Listed Sanatorium thus not complying with Policy SD13.

#### Trees

- 8.28 The site in question has been cleared during the development of the wider site and has relatively few trees save those along the boundaries, which effectively screen a lot of the site. Were members minded to approve, conditions would be required to ensure protection of trees within the site during development...

#### Sustainability

- 8.29 Policy SD48 requires all new developments to incorporate sustainable design features as appropriate to the scale and size of development. The applicant in their submission confirm that their proposals could achieve a 19% carbon dioxide reduction improvement through the use of photovoltaic panels on the roofs of the buildings.
- 8.30 As already stated the development proposed passive measures such as optimising the orientation and site layout, natural light and enhancing the building fabric performance and air permeability standard, and minimising cold bridging by using accredited construction details.
- 8.31 Active measures include high efficiency plant, lighting, heat recovery ventilation and low energy light fittings.
- 8.32 It is considered that, if Members were minded to approve, a suitable condition could be imposed to ensure compliance with Policy SD48 of the Local Plan.

#### Eco-System Services

- 8.33 The applicant has submitted an Ecosystems Services Statement which covers both current applications. The statement confirms (in relation to this application), that they have endeavoured through their design to protect and enhance existing landscape features (and this has been achieved in relation to the boundary screening along Kings Drive). They also consider that the proposals increase the overall provision of green infrastructure. They also consider that the proposals offer new street planting into the central courtyard.
- 8.34 The proposal also benefits from an agreed free-discharge into the site wide sewer network, where surface water will be attenuated as part of the site-wide attenuation provisions. The scheme is considered to be able to achieve the policy requirements in relation to renewables. The site features a

central courtyard including specimen trees to increase the ability to store carbon. It is considered that the proposals, on balance, meet the requirements of Policy SD2.

#### Highways/Parking

- 8.35 The proposals have been subject to scrutiny by the Highways Authority who consider the scheme to be acceptable in that it would not result in appreciably greater vehicular activity than that which previously existed within the site when the hospital was operational. The Highways Authority considered the information and trip rate surveys carried out by the applicant to be acceptable, however the authenticity of the transport statement and the validity of the Highways response has been questioned by a number of local residents and queries have been raised. The Highways Authority are currently reviewing the advice and will be responding to the residents' concerns in due course. Members will be updated.
- 8.36 The applicant has submitted information in relation to sustainability of the proposals and ways in which number of journeys to and from the site could be reduced. The applicant has put forward a proposed travel plan which is a further iteration of plans previously approved in relation to the site.
- 8.37 The proposal is considered to be acceptable in relation to parking provision, refuse storage, cycling storage and complies with Policy SD22 in this respect.

#### Water Supply/Flood Risk/Drainage

- 8.38 Local residents have submitted comments expressing concern about the current issues experienced within the site relating to supply of water and water pressure generally throughout the estate. It is understood that this appears to be an ongoing matter and that the current owners of the remainder of the estate are in discussions with the respective water companies who supply water to resolve the matter.
- 8.39 The matter as to whether the supply of water is a material consideration in planning terms is by no means simple, given that there are requirements upon developers and water companies to provide water supply to homes under separate legislation. Planning considerations should not duplicate requirements already set out under separate legislation and therefore using the planning system as a vehicle to address the perceived matter of lack of water supply/water pressure issues should not be given undue weight or consideration in this respect. Notwithstanding, the Authority has consulted the necessary bodies for any comment they may have on the proposals and are awaiting responses. Members will be updated in due course.
- 8.40 No issues have been raised in relation to Flood Risk or Drainage (notwithstanding the Drainage Officers suggestion that the matter of water supply be considered and that relevant bodies be consulted in this regard).

#### Ecology

- 8.41 The applicant submitted an ecology statement with the application to which the County Ecologist has raised no objection. The site in question was cleared recently and opportunities for presence of habitats and species is therefore somewhat limited. The Phase I habitat assessment found no rare or uncommon plant species of habitats (nor were any found adjacent to the site). The survey confirms that the site presents very little potential for supporting species protected by law or considered to be of nature conservation value. It is considered that the proposals do not have any adverse impacts on Ecological interests and the proposals are considered to accord with Policy SD9 of the South Downs Local Plan.
- 8.42 Comments made by the South Downs Society concerning the impact on ground nesting birds within the nearby SSSI by walkers, dogs and cats is noted. It is not considered the proposal would have any significant impact in this respect (and Natural England have raised no objection to the proposal).

#### Dark Skies

- 8.43 The proposed development is not considered to result in any issues in relation to Dark Skies given the already approved and extant residential development within the plot. The proposal therefore complies with Policy SD8 of the Local Plan. If members are minded to approve the application it is considered that a condition should be imposed to control the extent of external lighting in association with the development and potentially the extent and nature of glazing within the proposed buildings.

### Tranquillity

- 8.44 Given the approved and extant development within the specific and wider site, it is not considered that the development would result in such an impact on relative tranquillity as to refuse permission on this basis.

### Other Issues

- 8.45 Concern has been raised in relation to the impact that the development would have on existing infrastructure such as medical facilities. It is not considered that the proposed increase from 44 to 93 would have such an impact on existing services as to refuse on this basis. Whilst it is acknowledged that the change to assisted living might well have a small impact on such services, it is not considered so much as to warrant a refusal on this ground.

## **9. Conclusion**

- 9.1 It is considered that the introduction of additional dwellings in this countryside location is not acceptable in the context of Policy SD25 where there is a general policy restriction on housing development outside defined settlements. It is considered that the development proposed does not deliver any significant benefits as 'enabling' development, given that the restoration and future maintenance of the heritage assets and specifically the Chapel are already secured as part of the original permission and this proposal does not offer any more by way of public benefit. Whilst there are clearly ongoing issues with regard to securing an end user for the approved restaurant/shop, it is not considered that such an end user can be secured into the future through this development proposal.
- 9.2 In the absence of justification for the development in the countryside, the proposal would also be contrary to Policy SD29 in that it would not provide affordable housing.
- 9.3 It is also considered that the development as proposed has not demonstrated a landscape led approach. The introduction of larger, higher buildings, together with the provision of parking spaces, refuse storage and other infrastructure would result in a discordant development at odds with that already built and affecting the setting of the Listed Sanatorium to the south. The proposal is therefore considered unacceptable in design and layout and contrary to Policies SD4, SD5, and SD12 in the South Downs Local Plan and would adversely affect the setting of the listed building.

## **10. Recommendation**

- 10.1 The application is recommended for refusal for the following reasons:
1. The proposed development lies in countryside outside a defined built settlement where Policy SD25 of the submitted SDNPA Local Plan seeks to restrict new development. By reason of its form and intensification of use of the site, the proposed development would fail to conserve and enhance the special qualities of the National Park. There are no exceptional circumstances to justify additional dwellings in this location. Furthermore it is considered that the proposal, as a form of 'enabling development' provides little by way of benefits over and above that already secured under the original permission and the proposals therefore are contrary to Policies SD12 and SD25 of the Adopted South Downs Local Plan 2014-2033, Historic England Guidance "Enabling Development and the Conservation of Significant Places (2008), the NPPF and the purposes of the National Park.
  2. The proposed development by virtue of its introduction of buildings with generally greater height and mass would result in a discordant development at odds with the more sympathetic dwellings already built as part of the original 2011 permission, The proposals would appear overdominant, alien buildings with little linking them to either other development within the Estate nor the heritage assets. The resultant punctuated building line along Kings Green would result in a loss of symmetry from within the Green when viewed from the Sanatorium. The scheme does not follow a landscape led approach as required in the Local Plan and the proposals, would impact on the setting of the Listed Sanatorium and would therefore be contrary to Policies SD1, SD4, SD5, SD12 and SD13 of the Adopted South Downs Local Plan (2014-2033)
  3. The proposed dwellings would be in countryside outside any defined settlement within the Local Plan where residential development is restricted to exception housing. In the absence of provision

of affordable housing in perpetuity, the Proposals are contrary to Policy SD29 of the Adopted South Downs Local Plan (2014-2033)

## **11. Crime and Disorder Implications**

11.1 It is considered that the crime and disorder issues or implications have been addressed elsewhere in the report.

## **12. Human Rights Implications**

12.1 This planning application has been considered in light of statute and case law and any interference with an individual's human rights is considered to be proportionate to the aims sought to be realised.

## **13. Equality Act 2010**

13.1 Due regard has been taken of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010.

## **14. Proactive Working**

14.1 In reaching this decision the Local Planning Authority has worked with the applicant in a positive and proactive way, in line with the NPPF. This has included the provision of advice, numerous meetings and the opportunity to provide additional information in support of their application.

## **TIM SLANEY**

### **Director of Planning**

### **South Downs National Park Authority**

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Appendices: I. Site Location Map

SDNPA Consultees: Legal Services, Director of Planning.

Background Documents:

Public Access, Application Summary and Associated Documents

<https://planningpublicaccess.southdowns.gov.uk/online-applications/applicationDetails.do?keyVal=PVZ4OGTUGI300&activeTab=summary>

National Planning Policy Framework

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/60772/116950.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/60772/116950.pdf)

National Planning Practice Guidance

<https://www.gov.uk/government/collections/planning-practice-guidance>

Defra: English National Parks and the Broads – Uk Government Vision and Circular 2010.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/221086/pb13387-vision-circular2010.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/221086/pb13387-vision-circular2010.pdf)

SDNP Partnership Management Plan

<https://www.southdowns.gov.uk/national-park-authority/our-work/key-documents/partnership-management-plan/>

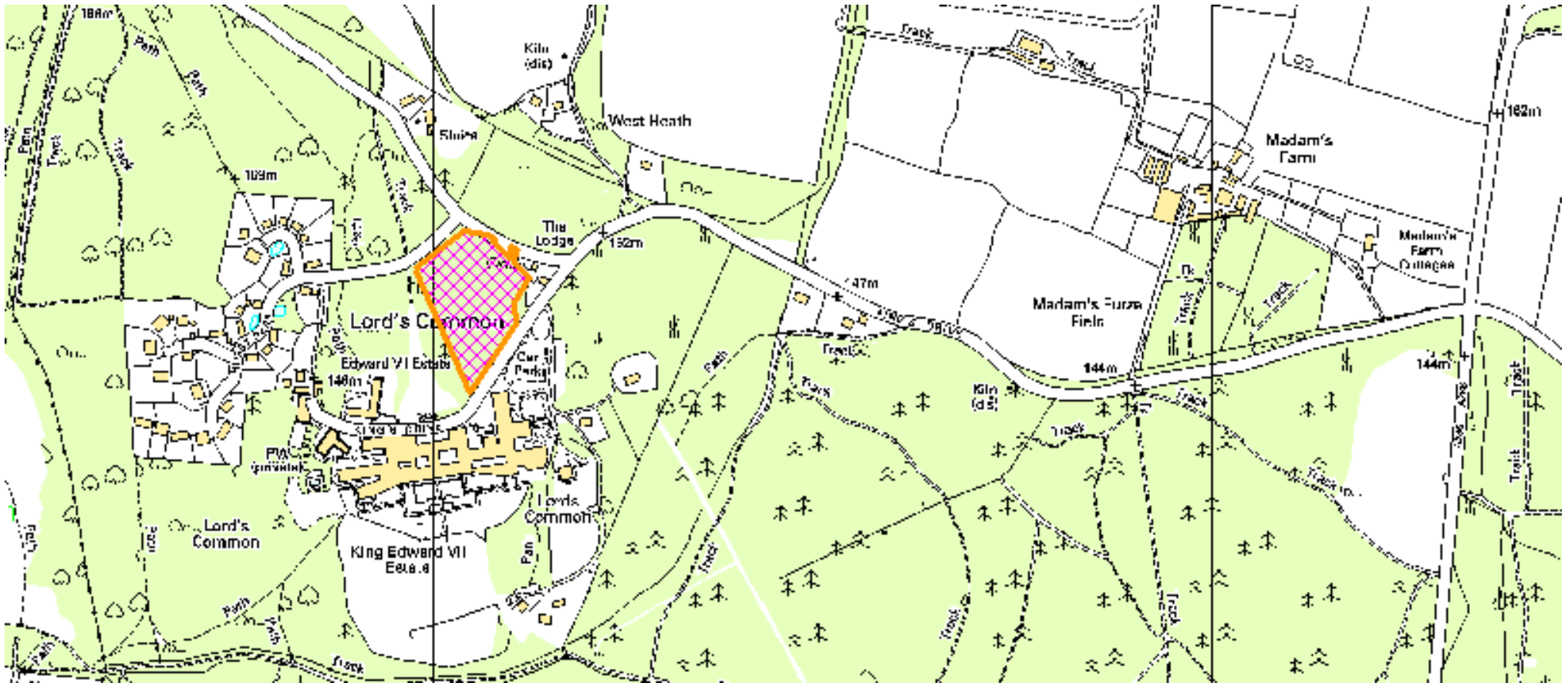
Adopted South Downs Local Plan

[https://www.southdowns.gov.uk/planning/south-downs-local-plan\\_2019/](https://www.southdowns.gov.uk/planning/south-downs-local-plan_2019/)

Historic England Guidance – *Enabling Development and the Conservation of Significant Places* (2008)

<https://historicengland.org.uk/images-books/publications/enabling-development-and-the-conservation-of-significant-places/>

Site Location Map



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