

Ref: /HM/ew

7 July 2011

Dear Member

**King Edward VII Hospital, Midhurst**

I am deeply sorry to have to burden you with this lengthy letter, but the reports in front of you regarding our applications to finally achieve the restoration and conversion of the former King Edward VII hospital, are so biased and so inaccurate in their critical facts that I must draw your attention to the actual and correct situation in advance of your determination on 11 July 2011.

We sadly find that your planners have recommended for refusal our current applications on a variety of grounds of which you will be aware, and I set out our response to those specific reasons later in this letter. However more importantly, I and my advisors believe that their Committee Reports are poorly researched, inaccurate, with critical omissions that result in completely unsupportable conclusions that are at odds with the advice and response given by the key consultees that you so rightly identified in the autumn of last year when the main application was last before you. Your planners have even reported on the draft S106 agreement in their possession.

I am sure that you will recall that at your Committee Meeting on 08 November 2010 you made the following decision with regard to a response to our proposals:

1. Comments made to Chichester District Council on this application be the preliminary view of the National Park Authority only, and that a further report be brought to the Committee once the comments from other important consultees were available and before a decision is made by the District Council.
2. Chichester District Council be advised that the preliminary view of the National Park Authority based on the information available at the time of the meeting and subject to potential change once the comments of other important consultees are known, is as follows:-
  - (i) The National Park Authority recognises the importance of the historic hospital buildings and the associated grounds to the cultural heritage of the National Park, the conservation and enhancement of which forms part of the primary purpose of National Park designation and the conservation of which is identified in PPS7 as a specific purpose for National Parks. The Authority therefore wishes to see these historic buildings conserved and the gardens restored and managed.
  - (ii) The Authority accepts that some form of residential redevelopment of the main buildings and a proportion of the site as “enabling development” is the only viable means of securing the future of the historic buildings and grounds, and is aware of the extant permission for a total of 263 units on the site.
  - (iii) However, given the sensitivity of the site and its location and to accord with the principles of enabling development, the Authority strongly believes that no more development should be allowed on the site than is necessary to secure the restoration and

conservation and long-term maintenance and management of the site's historic assets. Accordingly, the Authority welcomes the commissioning of an independent assessment of the applicants' financial case by the Council.

- (iv) Notwithstanding the conclusions of the Heritage Statement and the Environmental Impact Assessment, the Authority considers that this independent assessment and the views of English Heritage and Natural England are paramount in assessing the acceptability of these proposals.
- (v) The Authority is concerned at the indication by the applicants that the quantum of development proposed may not be enough to secure the restoration and maintenance of the listed buildings, as the Authority believes that if the development barely supports the financial requirements of the restoration of the heritage assets the justification for the development itself becomes questionable. The Authority considers that enabling development should not only support restoration but it should support a scheme which is financially viable in the long term to ensure that more enabling development is not sought in the future if, for example, the condition of the listed buildings deteriorates, or is at risk again in the future. The District Council is encouraged to seek the advice of English Heritage on this point, and to suggest how this concern might be taken into account in any legal agreement for the development.
- (vi) Therefore, provided that:
  - (a) the independent assessor confirms that the quantum and nature of development proposed is no more than is necessary to achieve the objectives set out in 3. and 5. above;
  - (b) neither English Heritage nor Natural England raise insurmountable objections to the proposed development;
  - (c) the minimal works to King's Drive and its junction with the A286 are acceptable to the Highway Authority; and
  - (d) the permission, if granted, is subject to a conditions or a legal agreement regarding:
    - materials, which should be of good quality and harmonise with those of the main historic buildings and their setting;
    - landscaping both hard and soft;
    - the provision of on-site affordable housing
    - the preparation and implementation of a long-term landscape/historic environment/ecological management plan for the site;
    - the removal of permitted development rights for extensions, alterations, ancillary buildings and means of enclosure;
    - the repair of the listed buildings and restoration of the gardens to an agreed standard in accordance with a timetable to be agreed by the Council and English Heritage;
    - any conservation measures required by English Heritage;
    - any ecological protection or enhancement measures required by Natural England;
    - external lighting, which should be low level;
    - public access to the historic garden and chapel at least once a year (ideally with access on request for bona fide students and garden enthusiasts);

- the provision of an on-site shop, recreation and leisure facilities and the sustainable traffic measures proposed by the applicants;
- measures to achieve at least Code for Sustainable Homes Level 3 and preferably Level 4 for the new dwellings including wood burning stoves and biomass boilers, and possibly the provision of a wood-fired combined heat and power plant using locally produced timber from managed woodlands or an energy from waste plant using waste arisings from the proposed development and water recycling measures;
- the provision of waste recycling facilities on-site to reduce the need to transport waste arisings off-site;
- the minimisation of construction and demolition/conversion waste through the implementation of a construction environmental management plan.

## **the National Park Authority raises no objections to this application** (my bold)

- (vii) the Authority would also welcome the provision of public access to the measured walks on an unrestricted basis through the dedication or permitting of rights of way.

I have taken the trouble to set out the decision in full because as with so many of the matters set out in the reports in front of you, they have been edited in an entirely biased manner and omit the essential words in order to bolster the pre-determined conclusions of the author.

**Nowhere** in the current officer's report have the points set out in your decision in November 2010, which itself was based on a full report, been properly addressed. In addition there are many factual inaccuracies in this latest report, the most astounding being that such significant facts as English Heritage's recommendation for approval to all three applications *is not even mentioned* in the main body of the report and the conclusion by the DVS that delivery of the scheme 'is not unrealistic' *is completely excluded*. I find it incredulous that your officer can conclude that matters are finely balanced before going on also to conclude that it is the heritage aspects of the case that result in a recommendation for refusal, when English Heritage *recommend approval*. The only logical conclusion is that your officers do not agree with the English Heritage advice but they give no reasons for doing so. Indeed your officers cannot agree with the conclusion of you own financial expert either who states that it is 'not unrealistic' for the scheme to be delivered. Once again no reasons for **ignoring the advice of your expert** are set out.

I wish to make clear that we fully understand that it is your planners' role to thoroughly review, understand and consider all of the facts of the case, the planning policy, the previous and extant consents, the consultees' responses, and the representations made and then draw a conclusion setting out the clear reasons both for and against the argument and ultimately to make a recommendation. We recognise that recommendations for refusal will often be accompanied by dissent from the applicants but I can assure you that City & Country is only interested in ensuring that the full facts are considered and that there are no costly and avoidable misunderstandings. We always try to communicate clearly and fully not only because we wholeheartedly believe that this is the correct approach when dealing with the often complex issues associated with heritage assets, but it is also important that we protect our position on any cost applications if an application sadly goes to inquiry. However given the seriousness of the situation and the precious heritage assets that are at stake we have sought the opinion of Queen's Counsel, in order to test ourselves as to whether it is we who are being unreasonably biased in this situation. He has confirmed that we are not and it is our intention that his conclusion will be forwarded to you separately as soon as it is available.

Further I would like to point out that Chichester District Council officers and *your previous officer* working within exactly the same planning policy did NOT find the reasons to refuse the application that are set out in the current reports, and whilst Chichester District Council officers recommended refusal, it was for the solitary reason that English Heritage at that time had an objection. English Heritage had concerns that the long term future of the place could not be guaranteed because there was not *enough* development to assure viability and deliverability of the proposals. Whilst there were some minor points of clarification required when the Recommendation and Committee Report were issued, despite it being a recommendation for refusal we had no cause to complain as the facts were set out clearly and fairly for the Committee Members to decide for themselves. It was indeed the concern raised by English Heritage that prompted the submission of the second application and the offer of a third in order to overcome their viability concerns. We submitted detailed appraisals in support of those scenarios which have been verified by the DVS and we now have English Heritage's support and a clear recommendation that the SDNP approve these applications.

I would like to now address the points set out at 2(vi) in your decision of 8 November 2010 upon which you asked to be addressed by your officers, but which the reports now in front of you so conspicuously fail to do. I have used your numbering:

- i) It is pleasing to note that the SDNPA recognise the national importance of these heritage assets. Indeed this importance has been recently confirmed by David Brock of English Heritage in his letter to your authority dated 23 May 2011 (and again which has been denied to you in the report) that states:

*"The views I have heard recently on this complex suggest some local unwillingness to accept that this remarkable set of buildings could be of the highest significance. It is true that the aesthetic, which was experimental, sometimes has a gawkiness which is not to everyone's taste: and it is hard at the moment to look beyond the innumerable slights the building has suffered to its essential qualities, which restoration would bring out (at a price). Nevertheless there can have been few more life-affirming buildings ever designed for long-term medical care in this country. That it was incongruous in its setting when built in 1907 there is no doubt: comparatively few large institutions of that date are found within the National Park's boundaries because the Downs were not sought out for these. But even though its location here could be said to be an accident of the state of medicine then prevailing, the hospital belongs to incomparably the most exciting era of architecture to mark Sussex profoundly: the age in which the Downland came to be appreciated for its topography and traditions, its ways of building among them. The hospital is therefore one of the buildings which shows how this topography was used and this tradition was adapted and taken forward. It thus has a good claim to be seen as one of the pivotal sites of its time and place. It is not 'out of place' any more."*

I also attach a copy of the entire letter for your ease of reference.

- ii) It is extremely heartening to see that the SDNPA appreciate that this was already a major developed site in the Park and had the realism to appreciate that given the torrid planning history associated with this site that enabling development provided the only viable solution to saving these assets. A view you share with English Heritage.
- iii) The DVS, the Government's independent financial assessor has found, **"the prospect of delivering the scheme does not appear unrealistic"** and this was despite the (reduced) conservation deficit that would remain when calculated entirely in accordance with the English Heritage guidance. He reached this conclusion based on a number of factors including the fact that this project has a nine year timescale from the date of any approval to completion and during that period the housing market is likely to improve compared to that which we are experiencing today. English Heritage guidance suggests that today's figures alone should be used, which for a project of this scale is going to mean that potentially more development will be required (and approved) than is absolutely necessary if the conservation deficit is to be reduced to exactly zero.

However City & Country explained that the following factors will impact on the amount of development required:

- City & Country is a specialist in the conversion of historic and listed buildings, with a track record of delivering highly challenging and complex projects. Please view our web site for examples of our current projects and track record: [www.cityandcountry.co.uk](http://www.cityandcountry.co.uk)
- We have undertaken very thorough research to inform our understanding and proposals for the development and therefore we believe we have reduced the potential risk of unforeseen issues.
- This thorough understanding combined with our expertise in conservation work gives us confidence that the contingencies, that are allowable under the English Heritage guidelines, may be able to be reduced in this instance.
- Professional fees have been included, in line with English Heritage guidance and in accordance with market rate, however again using our extensive experience within this particular market sector we believe we would be able to achieve savings by utilising our own in-house resource at a more cost effective rate and in a more efficient manner.
- The design is still at a very early stage and we will be able to value-engineer the scheme throughout the working drawing stage to deliver savings whilst still maintaining the high standards required.
- The experience of our production team in delivering restoration projects generally allows us to improve on the standard market rates during our procurement and construction phases. In addition the current challenging market conditions within the construction industry offer an opportunity to potentially capitalise on this, and place fixed price orders at more competitive rates. This is however a short term window of opportunity as forecasters predict an increase in costs in 2012.
- Sales rates and values have been correctly included to reflect recent experience and current market conditions; however there is the potential for market conditions to improve during the life of the development which could lead to increased prices and sales rate.
- As the construction programme is driven from a realistic sales rate, any improvement in sales should result in a shorter construction programme which could potentially result in a reduction in construction costs, holding costs and finance charges.
- The company and our funders have already invested significant funds to progress the application thus far and we are therefore committed to achieving a viable and deliverable solution.

The DVS concurred with the above points and endorsed our strongly held view that City & Country can deliver this restoration project. City & Country have indeed minimised the amount of development required by virtue of our honest and open approach that has aided the DVS to reach a conclusion that benefits all by minimising the amount of development required.

Contrary to what our detractors may suggest we are **not** greedy developers but rather an award winning commercial organisation that specialises in the conservation and restoration of historic and listed buildings and which is looking to find the challenging yet balanced solution that saves these magnificent buildings. We have enclosed herewith very supportive references both from our JV partner Macquarie Bank and Lloyds Bank who has been our sole banker for 49 years which shows their confidence in our financial acumen, our conservative approach and excellent track record.

It is also worth quoting English Heritage's own guidance on the matter which states:

*"The key expertise of the commercial sector lies in judging the market and taking on the risks inherent in that judgement. This ability and expertise is, and will remain, crucial to securing the future of most historic buildings that have become functionally redundant. ....there is a growing number of niche developers who specialise in historic buildings, and are generally better able to see potential and realistically estimate costs and end values."*

English Heritage and also CDC officer's however required more comfort that our proposals would be realised through the reduction in the conservation deficit so we immediately submitted the second application which in fact only adds a further 22 units, despite the description on the application (as we have had to reapply for an entire block when we are only adding a few units to that block). In addition we offered to make a third application that alters the mix of assisted care and residential whilst still maintaining traffic numbers below the historic usage of the hospital. The second application has resulted in English Heritage changing their recommendation from refusal to approval, subject to a robust Section 106 Agreement.

Accordingly it is clear that English Heritage have concurred with our submissions as applicants that the amount of development is the minimum to secure the restoration of the heritage assets, and the number of units will produce a service charge fund of approximately £1,137,000 per annum which will ensure that once restored the estate will be able to be maintained in perpetuity.

- iv) English Heritage have recommended approval to the combined applications subject to a robust S106 Agreement and Natural England have no objections subject to the mitigation measures being secured.
- v) See iii and iv above. The obligation to pay service charges is contained within the draft S106 along with the obligation to form a management company with all residents/occupants having a share each, and an obligation to maintain the buildings and landscape. Thus the long term future of the heritage assets is properly secured
  - a) the independent assessor, the DVS, **has** confirmed that the quantum and nature of development proposed is no more than is necessary to achieve the objectives set out in 3 and 5 above;
  - b) there are **no** objections, let alone insurmountable ones, from Natural England or English Heritage
  - c) the highways authority have **no** objections and the road improvements proposed are not a necessity so they could be omitted in part or in full, if so desired.
  - d) we can reasonably comply with all of the proposed conditions bar the one relating to affordable housing as this will result in more development being required, which is clearly contrary to your own aims. I think I should also point out that we submitted a phasing plan that demonstrated the order and timing of repairs which always came ahead of new development on a phased basis. The English Heritage guidance recognises that this is acceptable practice on large and complex sites in order to reduce the conservation deficit but yet ensure that the benefit of the repair and uses of the listed buildings always is one step ahead of the new development. Due to English Heritage's desire to use today's figures, against the advice of your financial expert, they have requested that the repairs and uses of the chapel and sanatorium are front-loaded within this programme. We have submitted a more detailed plan and programme that shows that this objective of front-loading the repair can be achieved but not to the extent of the repairs and uses of the chapel and sanatorium being 100% complete prior to any new build. The DVS is currently engaged on validating our proposals and we understand that he should respond to your officer by 8 July. A draft S106 is lodged with your authority that covers the phasing and the repairs and City & Country is happy to agree sensible alterations to the same.

Thus we believe that we have reasonably **satisfied all the criteria** set out so that the SDNPA can follow their previous decision and consultation response and approve the applications.

vii) unrestricted access to all the measured walks would negatively impact on values to the extent that further enabling development would be required. However in response to feedback and your request for wider public access to the measured walks, and in order to improve connectivity to the existing public footpath system, to relieve some pressure from the adjacent SSSI and to give views of the magnificent



southern elevations of the Grade II \* Chapel and Sanatorium a new route is shown on the attached plan which we propose to be dedicated as a public footpath.

These proposals will also breathe new life and purpose into one of the District's much loved collections of heritage buildings. From the numerous public consultation events that we have held it is clear that the former hospital holds very positive and strong associations and deep memories with a significant proportion of the District's community.

I have also attached the before and after certified Computer Graphic Images which so effectively demonstrate the dramatic benefits that will be derived from our proposals together with the plans that show the previously approved schemes so that you can compare and contrast them.

The clear facts remain:

- English Heritage, the leading expert on heritage, supports these proposals on heritage grounds
- Natural England, the leading expert on ecology and the natural environment, support these proposals on ecological and environmental grounds
- The DVS, the government's own financial viability expert has concluded that the prospect of delivery of the proposals 'is not unrealistic'
- West Sussex County Council agree that the development will generate less traffic than the hospital use, and the previously approved 2003 application.
- Chichester District Council, the original planning authority, the elected representatives of the local community and the team with the greatest in-depth knowledge of this site, through their dealings with all previous applications, voted resoundingly in favour of recommending these proposals for approval
- SDNPA resolved to accept the principle of the proposals on 8 November 2010 subject to support by English Heritage, Natural England and an independent assessment of the figures – all of which have been achieved.

The primary reason for the designation of the National Park is to: "To conserve and enhance the natural beauty, wildlife and **cultural heritage** of the area." We are absolutely confident that with your support, our proposals will not only deliver this vision but will also retain the positive associations that are treasured by local people. This is your opportunity to create a legacy for future generations and the wider community.

Time is of the essence however, as each day goes by the Conservation Deficit grows still further and consequently the challenge becomes even greater. It is therefore **imperative** that we ask you, as a member of the SDNPA committee that you approve these well considered and sympathetic proposals at the Planning Committee Meeting on 11 July 2011.

In doing so you send a clear message that the SDNPA takes its duties seriously and it is not the "bureaucratic hurdle to positive change" that has been widely reported in the press recently, but a force for change for the better and an organisation that is prepared to carefully consider the competing priorities and the independent expert advice it has been given, and can take tough decisions that will secure the cultural heritage of our nation for future generations, in the face of self-serving local objection. These proposals will bring about many area-wide public benefits, some of which I list below BUT even more importantly it will finally enable us to use our enthusiasm, expertise and excellent track record of delivery to set about the enormously challenging but rewarding task of restoring this nationally important collection of heritage assets, to realise our vision and give them the long term and sustainable future they deserve.

## Public Benefits related to the Restoration of KEVII:

- Securing the future of a nationally important collection of heritage assets by repairing them and bringing them back into beneficial use
- Preserving and enhancing a highly important piece of local social history for the benefit of current and future generations
- The long term protection and *enhancement* of the natural habitats within the extensive site and the ecological benefits that will flow as a result
- Open weekends for general public to view the restored gardens and the historic measured walks, which amount to 6 km of woodland and heathland walks through this historic estate within the South Downs National Park
- Immediate and on-going local employment – through construction activities for the next 10 years, and on-going landscape and building maintenance and the employees servicing assisted care facilities. this will create many jobs and offer the opportunity for training in specialist historic building techniques.
- Well over £120 million investment in the local area to undertake the restoration and development
- Financial benefits to the local economy through increased business and customers
- There will be significant financial benefits associated with our proposals through the Government's New Homes Bonus scheme, which would generate an estimated windfall of nearly £4m for Chichester District Council and nearly £1m for West Sussex County Council, which could be used to fund a range of local services including highway maintenance, education and waste disposal
- Highways improvements on Kings Drive and a mini-bus service providing a sustainable method of transport to Haslemere Train Station
- Housing to assist in meeting the identified 5 year land supply shortage and housing where a much greater proportion of the development land increase is captured for public benefits than is the case in standard development.
- The restoration of the Estate's measured walks will create a valuable green space that can be used by visitors and residents for walking and quiet recreation that will improve health and the appreciation of the historic and natural environment.
- The planting of in excess of 2,000 trees
- The habitat enhancement measures to encourage bird breeding
- New areas of habitat creation, restoration and a conservation management plan for the Park to enhance habitats for its all rich and diverse wildlife

The much published heritage regeneration benefits that flow from development of this kind as covered within various EH publications, Heritage Works<sup>1</sup>, Heritage Counts<sup>2</sup> and the Institute of Historic Building Conservation paper on the work of Donovan Rypkema<sup>3</sup>.

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<sup>1</sup> Heritage Works gives the "*wider impacts of economic and social value include:*

- Improvement to the physical fabric of urban areas
- Improvements in personal safety and the reduction of crime
- Community involvement and sense of ownership
- Employment
- Reversing population decline
- Improvement of image



The benefits of heritage restoration are also further defined in PPS 5 Guidance:

36. High quality places also bring wider community benefits, such as better health and education outcomes, reduced levels of crime, and improvements in community cohesion and social inclusion. Heritage assets play a key role in defining place and in building local pride. They can have a totemic value to a community, provide local focal points and can offer spaces for recreation or for people to meet.

37. Policy HE3.1 sets out the contribution the historic environment can make in establishing and maintaining economic vitality and sustainable communities. Local planning authorities will need to consider these when preparing the core strategy and development documents. In preparing these documents local planning authorities might also find it helpful to consider:

1. The social value of heritage assets to the community.
2. The potential for heritage-led regeneration.
3. The wider public benefits of the conservation of historic landscapes, parks and gardens. For example, in providing opportunities for recreation, the preservation of natural habitats and improved environmental quality.

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- Improvement in confidence: a sense of pride
  - Indirect inward investment into the wider area
  - A sustainable use of resources through re-use of past materials and embedded energy.

<sup>2</sup> The 2010 Heritage Counts Report 'Impact of Historic Environment Regeneration' 1 October 2010 states in its conclusion, "*In addition to economic benefits, it is also evident that heritage led regeneration leads to a number of less tangible, but equally important, wider social, cultural and environmental benefits. A survey of nearly 1,000 people and interviews with over 120 businesses, along with consultations with individuals involved in the implementation of the case study projects, highlighted a range of social and environmental impacts that are strongly associated with improvements to historic buildings and places. The results of the 'on street' survey identified that:*

- 93% of respondents rated the projects assessed as making a good or very good contribution to the local environment;
- over 90% of respondents indicated that investment in the historic environment had resulted in a nicer place in which to live, work and socialise, as well as a more attractive visitor destination;
- some 92% of those that responded indicated that they would rate the projects assessed as either good or very good in terms of raising pride in the local area, while 93% rated the projects as good or very good in terms of creating a sense of place;
- 89% of respondents agreed or strongly agreed that the investment has created an environment with an enjoyable atmosphere and over 80% that the local areas are pleasant places to spend time in during the evening;
- approximately 95% of respondents agreed or strongly agreed that the project areas were now a good place to meet friends;
- perceptions of safety had also improved – the proportion of respondents that indicated positive feelings of safety increased from 81% to 91% during the day and from 85% to 94% after dark;
- the historic environment contributes to determining where people choose to visit, with 91% of respondents identifying it as an important or very important factor. The influence of historic buildings and places in decisions about where to live and work appears to be somewhat lower at 74% and 68% respectively, but still a significant proportion of respondents; and
- 93% and 91% of respondents indicated that the project had improved the image of the immediate project area and of the wider town or city respectively."

<sup>3</sup> A study carried out by the eminent Donovan Rypkema and published by the Institute of Historic Building Conservation estimated that for every \$1M spent on heritage based restoration works 38.5 jobs would be created and for every \$1M in heritage based restoration works adds \$784,000 to local wages due to the intensity of labour involved in regeneration activities. If this ratio were to be correct then for every £10M spent on the restoration of KEVII it would create 385 jobs and £7.84M in wages.

4. The potential for heritage assets to improve quality of life and sense of place.
  5. Creating opportunities for the optimum viable re-use of heritage assets at risk.
  6. The role of traditional building materials and patterns of land use in local distinctiveness.
  7. How heritage assets contribute to the attractiveness of streets and public spaces and how this contribution might be enhanced by, for example, reducing street clutter.
  8. How to increase accessibility to and participation in the historic environment.
  9. The economic potential of heritage assets.
  10. The possible impacts of heritage tourism on the historic environment and wider community.
  11. Opportunities to increase housing supply or meet other priorities by re-using and adapting heritage assets.
  12. Ways that new development might complement and enhance existing settlements and heritage assets.
93. Keeping land in active use is a public benefit. It will be very rare that a decision has to be made between keeping a designated heritage asset and returning the site to active use but in such cases a balance still has to be struck between the loss to society of the significance of the designated asset and the benefits of returning the site to use. Loss of the highest graded assets will only be on wholly exceptional grounds.
126. The historic environment is one of the primary sources of evidence of our history. There is a great deal of valuable knowledge still to be gained from it. Safeguarding this new knowledge and making it widely accessible is an important exercise of general public benefit.

## **What will happen if these proposals are refused on 11 July 2011?**

If a refusal is received on 11 July 2011 it is likely to produce the following outcomes:

- A costly inquiry (best estimate of the costs on our side alone is £250,000+ depending on the reasons for refusal) that coupled with the holding costs during the 12 month delay in gaining a decision of approximately £840,000 equate to the conservation deficit growing by this amount and thus requiring a number of additional houses simply to get back to the current position.
- City & Country and the bank have exhibited massive commitment and desire to find a solution for this nationally important set of heritage assets that has been demonstrated by investing in excess of £2,500,000 to put together a first class team of consultants to bring forward a well researched and detailed set of applications, whilst making safe and securing the property. Given its functional redundancy and the lack of support a refusal would demonstrate, we fear a real possibility is the bank will very likely lose all interest in the site, legally sever any recourse to itself, and cut its losses thus resulting in these nationally important heritage assets being allowed to fall into a spiral of decay and dereliction until it is ultimately pronounced unsafe and demolished. Thus the vehement objectors will win but the nation and its future generations will lose a striking and significant piece of our cultural heritage that could have been restored and become self financing for the future.

The other suggestion mooted by objectors and we believe to be strongly in the minds of your planners, is that the new build development should go on an alternative site. But we need to consider this as a real world scenario. Is that suggestion credible or realistic, or in accordance with the 3 previous decisions to allow large scale enabling development on the site? Does it comply with the guidance and PPS 5? Our response to these questions is no for the following reasons:

The guidance states very clearly that we are to minimise the conservation deficit. Currently the conservation deficit has the value of the site in at nil value, as required in EH guidance, so any purchase price above zero paid for the alternative site will increase the conservation deficit and the amount of development required.

It is *theoretically* possible to locate the enabling development elsewhere under the guidance but the guidance recognises that practically it must be in the same planning authority. Thus in this case in the South Downs National Park. Where else in the National Park would it be considered to be more appropriate to relocate the amount of enabling development required and proposed?

There would also be further delay in finding, negotiating and gaining planning consent on this alternative site - if at all possible - again increasing the Conservation Deficit substantially further.

In addition, we believe that it is appropriate that the new homes required to fund the restoration of the historic asset should be located where the benefit of that restoration is realised. Otherwise any other community is being asked to bear impact of the new homes without any benefit

The officer disagrees with these obvious and credible 'real world' reasons in favour of a theoretical solution and does so without any expert market or financial advice. We would suggest this confidence in their own personal opinion coupled with the lack of market knowledge and commercial awareness is most unhelpful. Further to seek to draw a distinction between the National and local benefits of siting the new development within the National Park is a most unusual stance particularly as we are not aware of this being raised by either English Heritage or the DVS, both experts in the field of viability and enabling development. This is because they understand the unrealistic position of the author. Is it really likely that another site at or near nil value can be found that must be within National Park, as no other authority will grant permission for a new site to fund the restoration of an asset outside of their boundaries? This stance also demonstrates a complete lack of urgency and recognition of the seriousness of the situation. Finally, the local disbenefits I believe are overstated by the author in not recognising the historic use, past and extant consents. The report itself concludes that there are no residential amenity issues; it concludes that there are no highway issues. Indeed considering the reasons finally given for refusal these do not support the differentiation of local over national benefits.

The submissions included reasons why alternative locations for the development were inappropriate and that there is no alternative source of funding. English Heritage has considered their guidance and **recommended approval**. Their Policy is very onerous and states:

"Enabling development that would secure the future of a significant place, but contravene other planning policy objectives, should be unacceptable unless:

- A it will not materially harm the heritage values of the place or its setting
- B it avoids detrimental fragmentation of management of the place
- C it will secure the long-term future of the place and, where applicable, its continued use for a sympathetic purpose
- D it is necessary to resolve problems arising from the inherent needs of the place, rather than the circumstances of the present owner, or the purchase price paid
- E sufficient subsidy is not available from any other source
- F it is demonstrated that the amount of enabling development is the minimum necessary to secure the future of the place, and that its form minimises harm to other public interests
- G the public benefit of securing the future of the significant place through such enabling development decisively outweighs the disbenefits of breaching other public policies."

Therefore clearly English Heritage in their assessment have found that the proposals meet all the criteria and in particular criteria E. This conclusion is unsurprising when you simply consider the history of the place and EH's particular advice on distant sites:

*"1.1.5 In Northumberland County Council-v-Secretary of State for the Environment(1989) JPL 700, 702, it was held that the land to be benefited does not have to be in close proximity to the land which is the subject of the application. Enabling development may therefore be proposed on some distant site in the same ownership as well as within the place or its setting; but in practical terms it will normally be within the same local planning authority area. Distant sites have the obvious advantage of avoiding any harm to the significant place or its setting."*

When this is coupled with the clear message sent out by the inspector at appeal which calls for realism and real solutions that respond to the needs of the place the 'dream' site suggested by officers is not a real or credible option. EH guidance page 31 *'There is no reason to doubt the enthusiasm of the Arkwright Society, KRRC and other individuals and organisations for preserving Riber Castle by means other than those currently proposed. However, on the evidence available, I am not convinced that an approach based on establishing a Building Preservation Trust and seeking grant aid has a potential to succeed. I am also concerned that the need for action will become increasingly urgent within the next few years, if the listed building is to be preserved. It is questionable whether matters could move forward at sufficient speed to avoid further and more rapid deterioration of the listed building.'* Riber Castle 2006.

## **City & Country's response to the conclusion and reasons for refusal**

Planning policy has NOT materially changed since the three previous consents were granted and these applications are superior in all respects to those approved. The development plan is exactly the same now as when you determined your response to the application at your Committee in November 2010, it is the same as when CDC officer's wrote their report in April 2011 and yet your officer comes to an **entirely different** conclusion in spite of all the experts and unbiased key consultees supporting the applications. I believe that it would be highly unusual for everyone else to be wrong and this one individual to be right. English Heritage has stated in their various letters:

1<sup>st</sup> April 2011:

*"We acknowledge that City & Country has a generally good record of assessing and repairing historic buildings, and it has certainly employed in this instance first-class professional advisers.*

*We are broadly content with the treatment of the listed buildings, which would certainly be more sensitive than in previous schemes, but note that the reformation of the rear parts of the hospital south wing would interfere with the fullest possible restoration of the Jekyll scheme (another professed objective of the development). Recent drawings make clear the extent of this compromise. On balance, though, the benefit to the listed buildings and their immediate setting would in most areas be very substantial. And there is certainly a need for a comprehensive solution."*

21 June 2011:

*"There is never any certainty in property development and development appraisals are not 100% accurate. However, with a robust Section 106 (drafted with specialist legal advice) we believe that this second application could possibly work. In view of the public benefit from the restoration of these superb buildings, we would be prepared in that case to recommend that approval could be given."*

In the conclusion the officer finds that matters are finely balanced and that the deciding factors are the heritage aspects of the case. Thus given that English Heritage and the DVS support approval one would reasonably conclude that a recommendation of approval would be the outcome but surprisingly

and incredibly the recommendation is for refusal. The only logical conclusion is that the officer believes that EH and the DVS are wrong and their personal opinion holds greater weight and credibility than the experts. I would like to suggest that it is your officer who is wrong.

I have set out below our response to the reasons given for the recommendation to refuse:

### Detailed recommendation

- Substantial harm to sanatorium & chapel and harm to the Registered Gardens is not borne out by EH comments, which accepts the benefit overall is in favour and therefore they recommend approval
- The DVS assessment of the financial appraisal is that delivery is 'not unrealistic', and EH is now sufficiently satisfied that the long term future of the heritage asset could be secured by way of a robust S106 agreement such as to warrant them recommending approval
- The whole scheme is predicated on the needs of the heritage assets and **not** the owner's circumstances or the price paid for the site which have never been raised as an issue by the applicant. The needs of the heritage asset are eloquently set out in the EH letter of 23 May 2011 which has *conspicuously not even been referred to*. This point clearly demonstrates the lack of understanding that has led to such an astounding recommendation.
- Three previous applications have been put forward as enabling development to save the heritage assets and have been approved on this site. It is not credible to say that there are other sources of funding which can save the site without enabling development. The report does not even say that enabling development is not necessary. It says that enabling development could be undertaken elsewhere, which submissions and as set out above, have shown is not credible, and in the light of previous permissions, not necessary.
- The report does not identify any design or development type problems other than those allegedly causing harm to the heritage assets themselves which EH confirm are on balance acceptable. Further PPS 5 policy HE11 only requires that once the minimum level of development has been found that secures the future conservation of the heritage asset that it is then of a design and type that minimises harm to other public interests. There has been no dissention on the type of development or its design and indeed once the quantum of development was finally agreed it has been designed to minimise harm to other public interests. The officer has identified a harm which does not exist and in fact the quantum of the development has been accepted and agreed by English Heritage.

And the individual points relating to alleged disbenefits:-

- I. The location is defined by the existence of the heritage assets on the site. The site is already a major development and the proposed development is entirely in accord with the first and primary reason for the designation of the National Park.
- II. The submissions acknowledge that the location is outside any area allocated for new development. They also show that balance of the development is beneficial to the landscape. The Local Planning Authority prior to 1 April 2011, and still the Local Authority and Housing Authority for the area in which the site is located, ie Chichester District Council, overwhelmingly voted that it is appropriate for the local community. The proposals will deliver both economic and social community benefits that have been recognised in many studies and guidance. Repeatedly, development of the site has been tested against planning policy, which has remained little changed during that period, and major development has been approved. The difference with these applications is City & Country's specialist skills and track record of

successful delivery, the thorough and detailed assessment of the issues and a financial model that has been rigorously tested by the government's expert and deemed to be 'not unrealistic' . We have from the outset taken a realistic stance and used our skills and track record to meet the challenge and to manage the risks that have seen others fail. This should be seen for the exceptional opportunity that it represents to find a long term solution, as the real alternatives are decay, dereliction and eventual loss.

- III. The location of the site cannot be moved – it is where the heritage assets are located. It formerly supported a busy hospital, and 3 previous applications have been approved on the site in the currency of the same Local Plan which have accepted that the relative lack of sustainability in transportation terms was acceptable. The mitigation measures put forward, including on-site provision of facilities, provision of a mini-bus facility to local centres, the continuation of existing public transport links with buses actually stopping on site, and the substantial percentage of assisted living units on the site all weigh in the balance of granting permission. These applications as acknowledged by the Highway authority produce less traffic than that of the hospital.
- IV. Noise levels during construction will be minimised as much as possible, and will be a transient phenomenon. They would have occurred in relation to all of the previous permissions, and hospitals when in operation are far from silent places. The reason is not sufficient to warrant refusal and thus the loss of such precious heritage assets.
- V. The highway works have been previously approved and therefore could be implemented. No trees are lost as a result of the works. The proposed passing bays will not urbanise Kings Drive. It is possible to provide anti skid surfaces in other colours than buff, eg black, which will not have any urbanising effect. Given the previous usage, these improvements could quite easily be dropped especially given the fact that there is a perceived detrimental impact of these minor and arguably unnecessary works by your Officers. This situation creates an opportunity rather than a reason for refusal as SDNPA could simply grant subject to the omission of these improvements. These highway works should not weigh in any reason for refusal but should be neutral or indeed a positive aspect of the application.
- VI. The application set out from the outset that the provision of affordable housing will add to the conservation deficit. The planning officers of Chichester District Council, who are the Local Housing Authority, and their Planning Committee itself did not consider that the lack of affordable housing warranted refusal. Indeed this report states, "to meet affordable housing needs (which is not required in proposals for enabling development because it is acknowledged that the development does not comply with the policies in the development plan and it increases the amount of development)...". Thus this as a reason for refusal is ill-considered and at odds with the stated objective of minimising the amount of enabling development.
- VII. The other mitigating transport-related provisions are set out above. Any additional financial contributions would unacceptably add to the conservation deficit. The Highway Authority accepted that financial contributions were not required and the report fails to recognise the £5 million New Homes Bonus that will flow from the application and actually generate significantly more than the £478k contribution that has been suggested by West Sussex County Council for ALL infrastructure improvements including education.
- VIII. The mitigation measures for controlling pet cats have been accepted by Natural England and the provision for a ban on domestic pets is contained within the current s106.

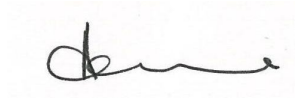
SDPNA state how they wish to see these much prized heritage assets restored and managed but given the planning history and the work and monies spent recently what signal will a refusal send out? How else realistically when the need is so great and so urgent is it that another developer will come forward and try to find a solution? So far over £2.5m has been spent in appointing a specialist team to research,

devise, evaluate, substantiate and produce our proposals while securing and making safe the property, with over £280,000 alone being spent since the CDC voted to approve the application and the SDNPA became involved.

Many thanks once again for your time and effort in reading this letter and I do hope that in light of its contents you will feel able to support us in our genuine aim to realise the sensitive and sympathetic restoration of this wonderful collection of heritage assets - breathing new life and purpose into them for the benefit of future generations.

Yours sincerely

**For City & Country Group Plc**

A handwritten signature in black ink, appearing to read 'Helen Moore', is centered below the text 'For City & Country Group Plc'. The signature is fluid and cursive.

**Helen Moore**

Residential Managing Director