



**South Downs**

National Park Authority

**Agenda Item 8**

**Report PC22/23-03**

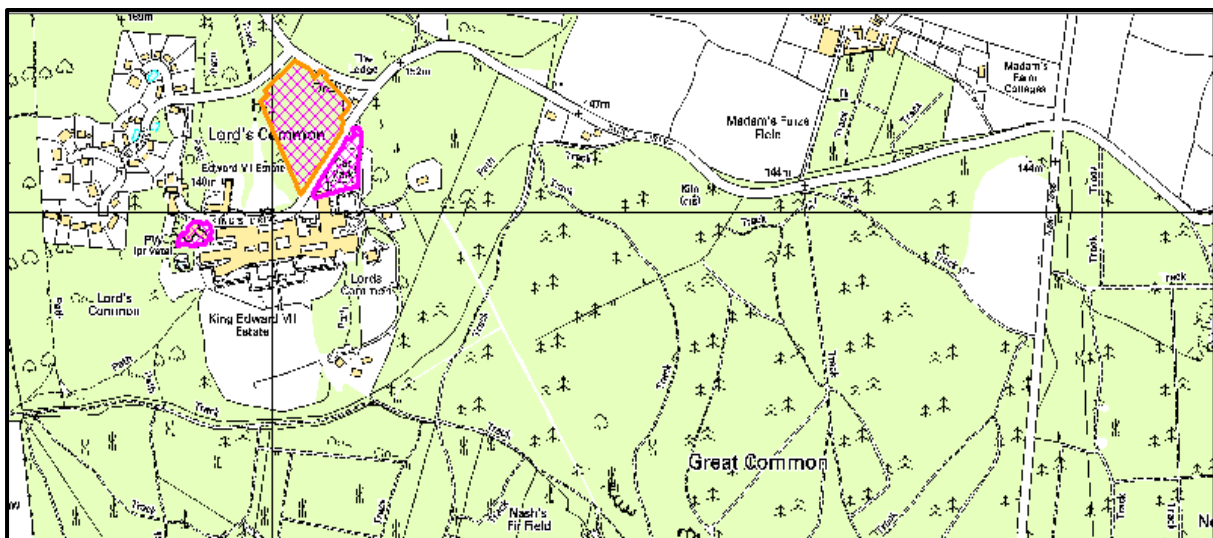
Report to	<b>Planning Committee</b>
Date	<b>8 September 2022</b>
By	<b>Director of Planning</b>
Application Number	<b>SDNP/21/06432/FUL</b>
Applicant	<b>Pinebridge Benson Elliot Mr Nick Waring</b>
Application	<b>Comprehensive planning application to include a 2 No phases of Class C2 (Extra Care) development comprising of 84 units (King Green East) and 14 dwellings (Superintendent's Drive), care facilities, internal and external communal amenity areas, car parking, landscaping and planting, refuse and recycling storage, pedestrian and vehicular access and links. Structural repair, refurbishment, fit out and change of use for Restaurant and Retail (Class E) purposes the Grade II* listed former Chapel building.</b>
Address	<b>Land at Kings Green East, Land at Superintendent's Drive &amp; The Chapel, King Edward VII Estate, Easebourne, Midhurst, West Sussex, GU29 0FA</b>

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**Recommendation: That the application be refused for the reasons set out in paragraph 9.1 of this report.**

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#### **Site Location Plan**



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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 known as Kings Green East that forms part of this application was originally for 44 dwellings (SDNP/11/03635/FUL). Other land forming part of the application includes a triangle of land between Superintendents Drive and Kings Drive, which has had various iterations of development over the parcel land but more recently (January 2020) two applications were refused respectively for Kings Green East (93 dwellings and residents facilities) and Superintendents Drive (18 dwellings).

These were refused primarily on the basis that there were no exceptional circumstances to justify additional development in the countryside and the development provided little by way of benefits in relation to enabling development than had already been secured on earlier permissions. Other concerns included the absence of affordable housing provision (given the countryside location) and concerns about the developments by virtue of inappropriate design, landscaping and density.

The latest application incorporates development to both Kings Green East (84 units) and Superintendents Drive (14 dwellings) of Class C2 – Extra Care, with associated facilities and the use of the Chapel as a Restaurant/Retail Unit. 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.

Whilst this application is considered, on balance to be acceptable in some respects relating to the general design, layout and landscaping of the schemes, the fundamental principle for development of a greater extent than has previously been approved is not considered to have been demonstrated.

Concerns have been raised in relation to viability of the scheme and it is not considered that the works required to bring the Chapel into use as a restaurant tally with the amount of development proposed. Even if this were to be the case, the proposed mechanisms to secure the ongoing use as a restaurant are not considered to give sufficient confidence that this will be achieved, and would require step-in rights by the Authority, which is not considered to be acceptable.

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 sufficiently 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 risk in terms of conservation deficit. Refusal is therefore recommended in relation to the broad principle of development.

Other concerns remain concerning the adequacy of the information submitted in relation to Ecology and Biodiversity and a refusal is also raised on these grounds.

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**

- I.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. 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 SINCE 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.

- I.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.
- I.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.
- I.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)
- I.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.
- I.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.
- I.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.
- I.8 The Sanatorium had 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.
- I.9 The specific parts of the site in question include Kings Green East, a diamond shaped plot to the north east of the Sanatorium close to the entrance to the estate. The Lodge, which until recently acted 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. Within this part of the site there is little by way of vegetation, the land having been cleared some time ago. The land slopes downwards from north to south throughout the site.
- I.10 The second part of the proposed site is a triangle of land located to the east of Kings Green East, Kings Drive, and to the west of Superintendents Drive. Within the site there is some vegetation and small trees in the northern corner of the plot. The remainder of the site comprises of hardstanding and the land slopes only very gradually from north to south. A landscaped band of hedging runs adjacent to Kings Drive on the western edge of the plot, which forms part of the landscaped avenue heading towards the Sanatorium. Most recently,

during the restoration and construction works, the specific area of the site which is the subject of the current application had been used mainly for parking/storage and a compound.

- 1.11 The third part of the site is the Chapel which is a Grade 2\* listed building. The Chapel is located to the west of the Sanatorium. The chapel is of an unusual 'L' shaped plan with two naves for separate use by men and women, originally open to the south with a stone colonnade, linked by an octagonal chancel and tower. It was built under a separate bequest, of the Brickwood family, slightly later than the main complex. It is considered to be the finest individual building on the wider site.
- 1.12 A boxy, post-war extension was added to the north side of the western nave to accommodate the hospital mortuary. Consent for its demolition and replacement with a new, slightly larger extension for a kitchen and ancillary accommodation was granted in late 2011, as part of the wider proposals for the restoration of the complex. More recently an extension for a swimming pool for residents has been constructed alongside the western nave of the building.

## **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 and future maintenance.
- 2.4 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.
- 2.5 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.
- 2.6 Other agreements in relation to the park and grounds and sustainable transport measures were also included in the legal agreement, which were programmed to take effect when a greater number of the proposed new build properties were occupied..

- 2.7 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:-
- 2.8 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 it is considered to be of relevance).
- 2.9 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
- 2.10 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
- 2.11 SDNP/19/03903/FUL - Erection of two terraces of 8 and 10 Class C3 dwellings respectively (18 units in total) with associated landscaping, parking, refuse storage and vehicular access from Superintendents Drive. Refused 17 January 2020

The reasons for refusal were as follows:-

*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 special 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 are therefore 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.*

*The proposal by virtue of its reduce plot size would result in a more cramped appearance within the site, with the rear of the dwellings dominated by parking, refuse storage and other infrastructure, together with limited private amenity areas and boundary fencing/walls. The scheme does not follow a landscape led approach as required in the Local Plan and the proposals would therefore be contrary to Policies SD1, SD4, SD5 and SD12 of the Adopted South Downs Local Plan (2014-2033)*

- 2.12 SDNP/19/03904/FUL - 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. Refused 17 January 2020

The reasons for refusal were as follows:-

*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.*

*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).

2.13 SDNP/20/03357/PRE Residential Development – Advice issued 11 October 2021

*Advice generally re-iterated need to address the principle of development including many of the issues raised on the previous applications in relation to viability, securing use of Chapel, etc. Also expressed need to fully demonstrate why Use Class would be defined as C2 and whether recent High Court judgement concerning affordable housing provision for C2 Use was relevant to this case.*

*Design and Landscaping considered to have commentary in DRP notes but noted that there would be elements requiring further scrutiny in the application. Confirmation that Chapel use and works to the Chapel would be subject to scrutiny as part of the application. Reminder that other documents would need to look at Transport/Highways impact, water supply etc.*

2.14 SDNP/21/06433/LIS Structural Repair, refurbishment, and internal alterations to enable use for restaurant and retail (Class E) – Being considered concurrently

**3. Proposal**

- 3.1 The application seeks permission to construct an 'Extra Care' development (Use Class C2 with a total of 98 1 & 2 bedroom units, reception and care facilities, communal areas in the form of a 'village hall', communal gardens and associated parking and landscaping). The matter of whether the development sits comfortably within Use Class C2 is considered in more detail in the main assessment section of the report. The proposals also involve the refurbishment and conversion of the Chapel to provide a restaurant, café and shop (alongside the existing use of the swimming pool extension) (Use Class E (a) and (b) to serve both new and existing residents of the Estate and the visiting public.
- 3.2 The development is spread across 3 specific areas within the Estate. The main area for development is Kings Green East. This part of the development would comprise 84 units within 12 buildings. One building in particular would also comprise a lounge area, treatment rooms and a reception/staff area for the end user (Elysian properties). The area would include parking for the properties, cycle, mobility scooter and bin storage, small allotment areas and a central landscaped area with a 'village hall' to the eastern side. This site would be accessed from Scotland Lane, with a small service access close to the Lodge, which is a Listed Building.
- 3.3 The second area is in Superintendents Drive and comprises a triangle of land which would accommodate 14no terrace units, some of which would face eastwards towards the existing properties in the drive.
- 3.4 This application is for residential dwellings falling within the standard use class of C2, however the applicant clearly sets out that the dwellings will be marketed specifically in relation to "extra care" 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 extra care package with residents being able to be provided with meals from the Restaurant.
- 3.5 The original approval for the site made provision for 44 residential properties (Class C3) 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.
- 3.6 This application is inextricably linked to the current listed building application also being considered at committee in relation to the restoration and works to the Chapel to facilitate the Restaurant Use. (SDNP/21/06433/LIS). The main application is being sought as further 'enabling development' to justify the grant of permission. 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.

- 3.7 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.
- 3.8 Most 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 historic 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.
- 3.9 The applicants consider that their development and particular offering of 'extra care' 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.)
- 3.10 Therefore the use of the Chapel is an inherent part of the proposals, and arguably the overarching principle of the application rests on the issue of whether this is acceptable 'additional' enabling development and the minimum required to ensure the ongoing maintenance and a use for the building.

#### **4. Consultations**

##### **4.1 Design/Landscape/Conservation Officer – Joint Response Neutral Comments**

Original Response (re-consultation undertaken following small changes submitted by applicant)

- Landscape: The role of the belt of pine trees plays in visual mitigation is fairly crucial. No buffer is provided. Construction goes up to edge. Its long term viability has not been used in layout design. Creating more space for roots is needed to generate an enhancement.
- Layout does not demonstrate a strong landscaper framework. East west planting is quite thin. More trees and water management could be happening in this space to deliver multi-functional benefits.
- Should be making site more permeable to wildlife.
- Car parking at northern edge is a missed opportunity.
- Car parking dominates realm, unless you are looking to the centre.
- Drainage was designed after the layout, so spaces are constrained.
- Concerns about the pedestrian access across the drive.
- LVIA: generally agree with level of harm afforded to scheme. Impact is considered minor beneficial, but in absence of baseline evidence, suggest this is an underestimate.
  - No reference made to Registered Park and Garden.

- Further information requested in relation to Lodge and development.
- Would like to understand more about site relating to Kings Green boundary.
- Heritage: Main area for impact is from approach along Kings Drive. Is there enough retention or replacement vegetation along the Drive. Can the pedestrian access be set back to minimise visibility.
- Minimal impacts from the two developments on the Chapel
- Design: Lack of overarching master planning is main concern. Content provided does not demonstrate how the three areas will function.
- If minded to approve, a number of amendments should be requested as part of conditions.
- Confirmation of ownership should be clear in relation to areas outside red line. Details of pedestrian networks should be provided. Review of the drainage strategy to include additional Suds features. Details of street furniture, boundary treatments etc.

#### Comments on additional information from Applicant

- Landscape: Appears that majority of drainage management will continue to be below ground in a network of pipes. Previous comments about missed opportunities remain. Majority of ponds appear even-sided and engineered. Suggest they be designed to be more integrated with their context.
- Previous comments still apply about settlement and buildings and pressures on boundaries.
- Previous comments still stand in relation to roads, tracks and paths. Lighting could be removed.
- Previous comments still stand in relation to woodland and trees, visual amenity, LVIA.
- Heritage: Nothing significant has changed so all previous heritage comments still stand.
- Wireframe indicates more vegetation needed along King's Drive and the south west corner of the site near to the Lodge.

#### 4.2 **Drainage – Comments**

- Surface Water Drainage: Should the application be approved conditions are recommended to ensure the site is adequately drained.
- Flood Risk: No objection based on flood risk.
- Potable Water Supply: South East Water consultation Response Noted. Additionally, would also suggest clarification sought as to how the potable water supply will be managed, both within and beyond the red line. Clear understanding needed about responsibilities for repair and maintenance/management of infrastructure.

#### 4.3 **Easebourne Parish Council – Object**

- Great disappointment with regards to this application regarding the body of comment, and SDNPA direction given to the developer following the refusal of the previous application.
- When the KEVII development was first initiated the current, and proposed level of density was wholly unintended. The volume is that of a small village but without the infrastructure or amenities and is therefore unsustainable.
- If approved, the site would be significantly over-developed.
- Application not materially different to previous application.
- In relation to Enabling development this was cited in the last submission which queried how many enabling developments are required to complete the promised work to the historic building.



- Water Supply: South East Water have stated there is insufficient water supply to the site to support the proposed development and additional demand. The Parish Council has significant concerns regarding this matter.
- Travel & Accessibility: Framework Travel Plan is not realistic in assumptions or ambitions. Further emphasis on cycling and walking which is not practical.
- The KEVII Development has not been served by public transport since habitation. Access to the bus service requires along walk along an unlit road without a footpath.
- The proposed mini-bus service will provide only a limited service for a small number of residents.
- Travel Plan mentions the appointment of a Travel Plan Co-ordinator, contact details for such a role have never been forthcoming.
- Commercial proposition: Restaurant discouraging those outside from driving to it appears impractical and highly improbable.
- Affordable Housing: Inclusion of affordable housing would be of significant public benefit and should form part of the application.
- Classification: Proposal for Class C2 does not preclude affordable housing (recent case law).
- The 2017 Housing Needs Assessment also focuses on the need to prioritise affordable homes and not extra care accommodation. Proposal would overwhelmingly exceed current needs and sit on a single location.
- Application C2 Use Class cannot be upheld, due to self-contained nature of the dwellings and difficulties with navigating routes to communal facilities.
- Ecology: Support concerns within the Ecology Report by HCC.
- Design: This design only has minor differences to earlier refusal, with changes to roof corners, towering dormer windows, stark, out of proportion with the rest of the design, lower parts remaining virtually identical with vast expanse of blank brick walls.
- Difficult to equate the design of the proposed buildings as being respectful of the historic buildings or even the more recent buildings.
- Community Engagement and Consultation: This has been extremely limited, and more of a tick box exercise than a genuine desire to gain valuable information and understanding.
- Conclusion: Little changed from the 2019/2020 application and therefore the grounds for objection cited still stand.

#### 4.4 **Ecologist – Objection**

- **Bats:** Not satisfied that the application is supported by sufficient survey effort or mitigation
- **Reptiles:** Proposed mitigation strategy is not acceptable. This information cannot be conditioned.
- **BNG:** The proposed offsite habitat enhancement creation could be acceptable. However, no information submitted in relation to the location of the offsite area, any update BNG report, offsite pre and post condition assessment sheets or calculation spreadsheet. Further information is required.

#### 4.5 **Environmental Health – No objection subject to conditions**

#### 4.6 **Highways Authority – No objection**

- Access: A review of both points of access onto Scotland Lane indicates that, there have been no recorded accidents within the last 3 years and that there is no evidence to suggest that the access and local highway network are operating unsafely.

- The SID site will be served by a single point of vehicular access from Superintendents Drive, located 60m south of its junction with Kings Drive. The SID access has been designed in accordance with MfS parameters with visibility splays of 43 metres. The LHA would consider applying MfS parameters in this location is acceptable. The offsite highway works for the access would be subject to a Section 278 Agreement with the LHA's Highway Agreements Team.
- Stage I Road Safety Audit: A Stage I RSA has now been undertaken. 3 problems have been raised within the Audit. The Designer has however agreed to all areas of advised mitigation.
- Capacity: The LHA would not consider the proposals would have an 'unacceptable' impact on the network and would not consider the application requires any further assessment on local junction capacity.
- Accessibility and Travel Plan (TP): With some modifications the TP is now considered acceptable to the proposed development. The revised TP has been submitted to the LHA as additional information. A suitable condition has been suggested in the lower section of this report to secure the package.
- Vehicular Signs: The LHA would be satisfied with the proposed signage.
- Parking: Parking Strategy is accepted
- Conclusion: the LHA does not consider that the proposal would have 'severe' impact on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (para 111), and that there are no transport grounds to resist the proposal subject to conditions

#### 4.7 Historic England – Comments

- Summary: Welcome the proposed repair, refurbishment, and re-use of the former Chapel, bringing the building back into long term sustainable use. Applications have the potential to see the building removed from the Heritage at Risk Register, which would be of significant heritage benefit. Do however have some concerns predominantly with the long term impacts the proposed use may have on the significant interiors of this Grade II\* listed building.
- Recommend further information, amendments, or assurances sought to safeguard the historic interior from daily atmospheric change.
- If the development is to be considered as enabling development, will also need to ensure that the proposed additional housing development is the bare minimum necessary to achieve the benefits proposed to balance any harm.
- Background: The building is currently in a stable condition, but some further work is required to address areas of damp, condition of windows and areas of structural movement particularly in the Chapel of Rest and Passage. The costs and details of this repair work are contained in the viability report.
- Proposals and their impact: The landscape proposal for Kings Green East appear to have been slightly reduced compared to the consented scheme. However the land at Superintendents Drive appears to have reverted to the design more closely back to the 2011 consent with a large triangle of soft landscaping adjacent to the RPG boundary. A pedestrian crossing is proposed to connect the two sites across Kings Drive.
- Proposals for the Chapel and its impact: The key impact is the introduction of an open kitchen within the Chancel area. The indicative drawings suggest these units will marginally detract from the appreciation of the Chancel windows and space.
- Historic England Position: Authority will need to be convinced there is a recognised conservation deficit, and these proposals are the last resort and the minimum necessary for securing and safeguarding the long term future of the Chapel.

- The approach to layout, height, architectural design and landscaping of the proposals appears to better reflect the original 2011 consent and the surrounding developments already built out when compared to the refused 2019 scheme. On balance do not consider these proposals will result in any considerably increased harm to registered assets compared to the consented scheme. However do consider that a small further harmful effect is likely to arise from the greater density, reduced landscaping to /Kings Green East and lateral stepped pedestrian connections across the Kings Drive, which may require associated ramps, lighting and railings. Combined, these are likely to increase the visible urban hardening of this part of the RPG boundary.
- The Chapel: Welcome in principle the repair, reuse of the former Chapel which should facilitate removal from the At Risk Register, which would be a heritage benefit.
- However it is unusual for high volume cooking to take place in historic interiors of this significance and sensitivity, so would expect to see a detailed heritage impact assessment to support the application, which hasn't been provided, Therefore have concerns about the impact of the proposed use on the interior.
- Open Kitchen/Chancel: Intensive cooking will cause steam, smoke and fat spatter to enter the atmosphere, all of which creates a risk to historic building fabric, particularly to glazing and furnishings. All glazing is vulnerable to moisture and heat change, as well as air pollutants. These can cause glass and leadwork to deteriorate and can lead to organic growth on surfaces.
- No details of the kitchen extract have been provided. It is not clear what proportion and degree of grease, fumes and moisture will not be captured by the extracts and the likely impact of this on the historic fabric, or any monitoring to mitigate this.
- Recommend that further information should be requested that includes an inventory of all the historic features and assess the likely atmospheric conditions caused by the proposed use and consider its impact over months and years. This should include a review mechanism to demonstrate how the impact to historic would be monitored and mitigated. Recommend seeking further information as to how maintenance of filtration units would be enforced over time.
- Flooring: Whilst we appreciate the need for more hygienic washable floor finished, it's unclear why the existing flooring could not be retained in situ beneath a suitably appropriate floor covering. Recommend seeking further details.
- Secondary Glazing: Would generally not support the use of secondary glazing in historic churches, particularly those listed at Grade II\*, without strong justification as to why it is necessary for the ongoing use or reuse of the building.
- Conclusion: If the authority considers that following the submission of further information, the issues above can be addressed, and proposals clearly and convincingly justifies, it is vital that any repair and maintenance works required to the chapel are clearly laid out and secured through an appropriate mechanism, with the aim of enabling the removal of the Chapel from the At Risk Register.

**4.8 Local Lead Flood Authority – No objection**

**4.9 Natural England – No objection**

**4.10 Public Right of Way Officer – No objection**

**4.11 South Downs Society – Objection**

- By reason of its form and intensification of use of the site, the development would fail to conserve and enhance the special qualities of the Park. No special exceptional circumstances to justify additional dwellings in this location. 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 are contrary to Policies SD12 and SD25 of the Local Plan.

- Water: The estates water is supplied to existing homes by being pumped out to a large holding tank daily. This tank is reportedly not to be increased in capacity and no other viable alternative in provision has been made to supply the proposed extension of the Estate. Indeed, the South Eastern Water Company has clearly stated there is insufficient water available to supply the current proposals. Until the developers can rectify this, there seems little point in progressing this application.

#### 4.12 **South East Water – Objection**

- South East Water confirm there is an insufficient water supply to the site to support the development and additional demand. It is noted that no Section 45 notice and/or application has been made to South East Water by the developer to secure a supply for domestic purposes to the proposed new dwellings.
- Substantial re-enforcement of the distribution network within South East Water's wider area of supply would be required should the developer choose to requisition upgraded water mains to supply this site. Similar considerations would apply to any new appointment and variation application relying upon South East Water Resources.

#### 4.13 **Southern Water – Comments**

- Advice provided in relation to informative about sewerage and SuDs

### 5. **Representations**

#### 5.1 **Letters of objection from 99 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

- Will lead to significant increase in traffic.
- Crossing point on Kings Drive will increase risks of accidents, with increase in vehicular movements.
- Kings Drive/Midhurst Road A286 Cross road will not cope with additional traffic.
- Opening restaurant to general public will increase traffic.
- Requirement for residents to take meals in chapel or have option of delivery to their homes will increase vehicle movements within the Estate.
- Insufficient parking spaces for visitors, carers and other staff, meaning they will park elsewhere on the Estate. Out of a provision of 98 spaces on 11 are suitable for Disabled users. Provision of 9 spaces for visitors wholly inadequate.
- Provision of car club lacks ambition, given only 1 space being made available for this service.
- Frequent movement of buses will compromise traffic flow.
- Traffic surveys undertaken during first week of pandemic. Also failed to consider impact of all other building works that are planned.
- Promotion of walking and cycling ignoring the isolated location. Tracks and paths are steep, uneven, for much of the year.
- Concerns raised in relation to accuracy of information which led Highways Authority to conclusion not to object.
- Travel Plan: C & C transport plan has never materialised 6 years on. Not beneficial to employ a traffic controller to augment the Travel plan.

##### Quantum of Development

- Flawed to place extra care in this setting.

- Plans virtually double that of the consented plans. Building footprint of SID only reduced from refused scheme by 56m<sup>2</sup>. Same application in 2019 for KGE proposed 93, where this is 84. Density would be at 47dph.
- Coupling this with increased car parking, combination will dramatically intensify the pressure on the density of both sites.
- Increased parking confirms scheme is not landscape led. Not changed since earlier refusal.
- The fact that the SID site is now much smaller means an holistic overview concludes we are not comparing like with like. It follows a terraced arrangement is no longer appropriate. Only true and lawful extant permission is the 6 house plan.
- Reasons for rejection of 2019 applications still apply.

#### Use Class C2

- Site is too remote from medical and other facilities to be suitable for C2 development.
- What happens to end of life care, which doesn't seem to be part of the proposals?
- Claim made that C2 institution will release local, larger housing for younger families is untrue.
- Applicants believe as elderly vacate their homes in the immediate area, these will be bought by local families. Would be far in excess of what local buyers could afford.
- BE Report by Knight Frank defined Primary Catchment Area but included areas outside of SDNP and CDC. Not representative of Local SDNP population.
- Development would provide 12 years of all extra care housing need required across the entire SDNP/ Disproportionately large to place in one location. No reasonable justification for a C2 institution of this scale.
- Headline Social Needs Report has not provided any real life data. Extension of the CDC boundaries confuses the situation
- Applicant does not offer specialist dementia or mobility care.
- Proposals at odds with CDC definition of C2.
- If this were a genuine C2 facility, it would require far higher ratio of staff.
- SDNP started importance of supporting vibrant local communities including all ages. C2 residential institution does not support this statement.
- Would expect the restaurant for C2 care units to be on site with the C2 homes, not on a different parcel of land.
- Recent judgement confirmed that C2 use still meant Affordable Housing should be provided.
- Earlier assisted living scheme as part of original development was not progressed as no one was interested.
- At odds with definition of C2 use as facility is described as for affluent fit and healthy over 65 years of age.
- Implies low level of care.
- Properties will be sold to older people beyond the SDNP boundary.
- Not clear why applicant did not use the SDNP HEDNA Report 2017 which studies housing needs in the National Park.
- Inadequate layout of communal rooms. Gymnasium too small.

- Proposals for self-contained homes, and in case of SID not even physically connected to the main site where limited communal facilities are located.
- Defined as C2 Use Class merely to avoid paying CIL.

#### Enabling

- When the sites and Chapel were sold to the applicant, they would have known that the Chapel condition had already been enabled, and understood the Owner of the Chapel bears the cost.
- Principles in Historic England Guidance are that an incremental approach to enabling development is not an acceptable practice, because it is necessary to consider the effects of the enabling proposals in their entirety before deciding whether the benefits outweigh the harm. Also, the conservation deficit should be calculated using present day costs and values.
- SDNP should not permit a link between restoration of the Chapel and any further application. Chapel has already been restored.
- No benefits to outweigh the harm to the NP and site.
- Inconceivable that the amount of development proposed is the minimum needed to secure the Chapel.

#### Viability

- Report suggest return from this proposal is more marginal than from the residential development it would replace. This is a commercial development. Construction costs will be higher. There will be ongoing financial returns to the operator from annual service charges, plus sales of ancillary services. When a resident sells a property, there will be an obligation to pay an exit fee.
- Viability report does not support the claim for further enabling development
- Applicant has taken a hypothetical Benchmark Land Value based upon a refused scheme. Not a valid basis for comparison.
- Build costs have been exaggerated.
- Residual Land value (RLV) includes costs that sit outside the normal definition of terms used in the assessment of residual value.
- Argus is not an appropriate form of assessment for this application as this tool is designed for more traditional forms of construction.
- With relatively small movement, the proposals could be reduced in ambition and still achieve the guidance set out by Historic England.

#### Design/ Landscaping / Trees

- Density too great in a rural location.
- Bad example of piecemeal development.
- In DRP it was stated that the proposals must have design principles of “rigour, order and elegance”. This development has none of the characteristics.
- Given that the Estate is truly outstanding, any development should be of exceptional quality to complement it (NPPF Para 79).
- Both sites dominated by parking with little community space. Not landscape led.
- Development of KGE and SID will give sense of enclosure along Kings Drive, out of keeping in this location. Buffer area not dense enough to hide the modern buildings.
- Are buildings designed to provide adequate width for wheelchairs.

- Only concession to landscaping compared with 2019 refusals is a shared landscape feature to the west of SID plot.
- Layout is not unique and does not contribute to setting of the historic park and Grade ii\* listed building.
- Layout not in accordance with original vision for development and not a high quality design. New frontages have a strong urban edge.
- The original consented scheme from 2011 does not set a precedent for the degree of urbanisation contained in this application.
- No consideration in providing access point between KGE and SID to loss of three trees.
- Proposed gardens on both sites will be shaded.
- Disjointed approach of the masterplan. Lack of fluidity in design.
- Total land area of Kevll is 51ha. Ratio of 410 houses to land mass is 8 per hectare. SID plot of land is therefore overdeveloped with a high density ratio.
- Modern minimalist approach do not enhance Arts and Craft styling of the remainder of the site.
- Village Hall is featureless.
- Grade 2 listed lodge will be dwarfed by the proximity to the development and the village hall.
- Superintendents Drive: Original site was much larger and parking provided elsewhere. Most of land devoted to roads, parking and hard landscaping at odds with Gertrude Jekyll gardens. Terrace designs are Spartan and featureless.
- Effect of SID will be exacerbated by planned C & C Houses to south of SID.
- Views of existing residents in Sir Geoffrey Todd Walk will be compromised. Car headlights will intrude upon the mews cottages. Windows of new terraces will look down on the bedrooms and lounges of the mews cottages.
- Southern terraces will overlook the Sanatorium creating a clash of styles.
- Plans do nothing to change officer assessment in 2019 application. Cramped and poorly designed.
- No screening, no green landscaping and where a communal garden was indicated, now replaced with a circle of grass and a small tree.
- Face to face terracing will create a wind tunnel.
- Lack of amenity space.
- Black metal shutters are unsympathetic.
- Plans will present owners of Sir Geoffrey Todd Walk houses with 2 non-active gable ends.
- Inaccurate to say the properties are 2 storey dwellings.
- Design Guide SPD is not supportive of rear parking, and private amenity space does not appear to accord with the space guidelines.
- Integrated benches at front of properties would affect privacy of properties opposite.
- Applicant intends to fell protected trees and bushes
- Increased wind speeds due to SID proposals will impact on SGTW residents.
- Concern about loss of protected tree on SID site.

- Kings Green East: Whilst roof heights remain unchanged, eaves heights have been raised, roofs flattened and dormers increased in dimension, raising density and bulk of buildings. Layout is insular and ignores setting. Turns it's back on the Estate. Less desirable features (GSHP plant, bike store/workshop, waste collection) located on extremities of the site.
- Overbearing properties in the centre.
- Mocked up factory style chimneys.
- Outdoor leisure areas will face the green, noise will impinge on enjoyment to others of this green space. Significant balconies will result in light spill to Kings Green. Building mass will be visible from all aspects in the Estate. Village Hall is a misnomer, given half of the building is devoted to the plant room for the GSHP.
- Green space is insufficient
- Placing properties so close to boundaries will result in light poverty for residents.
- Layout overbearing, regimented, minimalist and angular.
- Pedestrians will have no sense of arrival.
- Few vistas between buildings.
- Insular and inward looking.
- Rooflines bristle with ugly four square dormers. Look heavy and out of place.
- The Chapel: Area devoted to food preparation etc. takes up most of the Chancel and Vestry. Only 20 seats devoted to a café compared with 60 covers at any one time in the dining room. Impact will be damaging to residents around the Chapel building but to those whose homes are adjacent to paths and roads between the sites.
- Class E would suggest less than 50% take away.
- Concerns about management of parking
- Plans to break through walls to create a main door should not be permitted.
- Impact of commercial enterprise so close to properties in the Sanatorium.
- Access to pool from within Restaurant is inappropriate. Pool is not DDA compliant.

#### Estate

- General: Mass and height of buildings on an elevated site will overshadow, Kings Green, the Drive and the Sanatorium.
- Poor connectivity between three parts of the site with impact on Kings Drive.
- Lack of lighting for routes.
- No discernible differences from earlier refused applications.

#### Ecology/Wildlife

- Increased light and noise pollution (including impact of additional traffic) affecting wildlife, including bat colonies and ground nesting birds. . Applicant not demonstrated net biodiversity gain.

#### Neighbouring Amenity

- Light and noise pollution
- Impact on residents by parking/travelling in connection with restaurant.
- Rubbish disposal likely to result in smells and vermin.
- Overlooking from KGE properties balconies.



#### Matters relating to delivery of other services on Estate

- Recently residents were asked to limit their water consumption due to electricity problems at the pump station.
- KGE an unsuitable platform for new development until water, internet, healthcare, public transport is made easily accessible.

#### Water Supply/Infrastructure

- Barely sufficient water supply for the estate at present.
- South East Water do not have capacity to increase supply.
- Service charge accounts for 2020 show no mention of sums set aside specifically for replacement of water supply infrastructure.
- Understand Kevll is not regulated by OFWAT and so do not have benefits that others have.
- Insufficient water if there is a fire on the estate.
- Developers state no need for facility to be water neutral but CDC planner confirmed new development would be subject to the water neutrality policy.
- Is there sufficient spare capacity in the grid to ensure the estate does not suffer from power outages?

#### Other

- Compromises Dark Skies Policy.
- Fits the criteria of major development.
- Houses stated are 3 bed when showing a study.
- Concerns GSHP. Noise during construction and post construction.
- Not considered to be a rural exception site. Lack of meaningful community consultation into the proposed development.
- Proposal will cause Estate to become an isolated population of increasingly older people.
- Does not comply with Sandford Principle.
- Proposals do not meet criteria for out of settlement development (SD25).
- Sections should have been provided, given the changes in levels throughout the site.
- Difficulties in attracting staff.

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

- **Principle Development outside any defined settlement:** Applicants have not sought to demonstrate essential need in a countryside location.
- Given the applicants accept that the site does not fall within a WEP, reference to this section of Policy is irrelevant.
- **Enabling Development:** The future conservation of the Chapel has already been secured. The costs of fitting out the Chapel to do so, should have been factored into the originally submitted proposals.
- HE guidance states the sums of money generated through enabling development are provided directly to solve the conservation needs of the place, not solve the financial needs of the present owner, to support/finance a business or compensate for the purchase price paid for the site.
- Any additional funds can only be needed to support the intended business use and cannot be used to justify the uplift in housing numbers at the site.

- Trying to find a long term use for the building cannot be said to be needed for its long term maintenance given the provisions of the existing S106.
- HE raise concerns about whether the proposals can be deemed enabling development.
- Even if SDNPA were to accept this as enabling development, a balancing exercise is still required.
- The benefits secured by this application would just be securing a use. Given long term use is not required to secure its long term maintenance, limited weight should be given to this benefit.
- Applicants suggest allowing public access to the Chapel is another benefit. Weight assigned to this benefit should be limited.
- **Financial Viability:** Important that an independent review is carried out.
- **Affordable Housing:** The application proposals should be subject to the requirements of Policy SD28 on the basis that it is residential development providing homes.
- If SDNPA feel that Policy SD28 does not bite, it is requested that SDNPA give serious consideration as to whether the proposals can genuinely be deemed a C2 use.
- Proposals should be considered C3 units and therefore liable to affordable housing contributions under Policy SD28.
- **Need for C2 Extra Care use:** Some of the units should be assessed as 3 bedroom units. If SDNPA are content to accept the proposals as a genuine C2 units, this does still not justify the proposals in principle.
- There is no suggestions that sites outside of the settlement boundaries have to be exceptionally released for this type of housing., or that single sites should deliver significant proportions of the entire Park requirements in one go.
- As an application for development within the Park, the proposals should be assessed against the needs of the Park, not the needs of the whole of Chichester District.
- Applicants have not demonstrated that this is the only site where the need can be met and if sites outside of the settlement boundaries are to be released, they should be done so in a planned manner. The applicants should demonstrate that there are no other more sequentially preferable site to meet the need.

### 5.3 **Letter of Objection from Council for Protection of Rural England**

- Doesn't not conserve and enhance the natural beauty and range of wildlife (SD9, SD11, SD12, SD13)
- The increased density proposed is a major departure from that originally envisaged for the Estate, a medium density, cottage and house approach sympathetic to the historic buildings and parkland set within the SDNP.
- Layout, scale and design not sympathetic to the heritage buildings and rural setting. Need for increased hard landscaping between buildings, parking bays, communal refuse areas and associated lighting serving the apartment buildings, and 2 terraces. Significant departure from the original landscape led vision. Parking was to be concealed using underground car parks and individual on-plot parking with garages.
- High density 3 storey buildings and two terraces are urban in character and not compatible with SD5 and SD12.
- Site well not served by public transport and no key services within reasonable walking distance.
- Increased density will have a negative impact on Dark Night Skies within the Park.
- Bat surveys have not been conducted in accordance with best practice guidelines.

- Survey data for GCN (Newts) need to be up to date within 10-2 years of application.
- Application wrongly states that areas are unsuitable for reptiles, yet land was previously covered by woodland. More survey work needs to be undertaken.
- Application should be refused in relation to biodiversity net gain.

#### 5.4 **Letter of objection from Resident Action Group**

- Would like to understand what the developer means by “Extra Care”. Would like to understand what Extra Care provisions are being guaranteed. Historically guarantees have been broken as a medical facility was originally proposed but never materialised.
- To ask for more enablement funds is surely not acceptable.
- Design – Proposal is incongruous and does not add anything positive to its existing surroundings.
- A responsibility to ensure affordable housing is successfully integrated into all sites.
- Appears a piecemeal approach is taken to all developments.
- If on the one hand, SDNPA can count services and facilities outside the settlement as part of settlement facilities assessment, then surely the same can be applied when looking at KEVII as outside the settlement but within the parish.
- Concern arising from windfalls sites. We understand that these sites do count towards Local Plan housing provision, but will not count towards settlement specific housing. IT makes clear that any windfall should be modest and conservative.
- Number of residents and particular needs will be significant and will directly impact the infrastructure, services, and facilities of both Easebourne and Midhurst. Demands on medical services, water, sewage and the roads, the concern is for the future infrastructure and environmental well-being of all that live here.
- Concerning the Settlement Facilities Assessment, hopefully it has been highlighted due to its proximity its impact cannot be ignored. Appreciate that SDNPA have to base housing allocations on certain criteria, it would appear that the assessment used same facilities and services for both settlements, in effect double counting them.
- Crucial that a bigger picture approach to all developments in both the settlement and Parish of Easebourne is adopted against the currently limited piecemeal approach.

#### 5.5 **Letter with comments from Sanatorium Tenants Association**

- Results of a survey suggest that, if executed well, a café/restaurant facility will enhance life for majority of residents but there is a real risk that this could be to the detriment of some, especially with regard to non-resident access, traffic and parking.
- Mindful that there must be some solution for the Chapel’s future.
- Summary of results of survey is representative of views of members, but has not been subject to a formal vote and do not present it as the official view of the tenants association.
- Survey was executed in May 2021, prior to the submission of the application, based on only a broad outline of the applicants plans and intentions.

#### 5.6 **Letter of Objection from Midhurst Society**

- Too similar to previous application which was refused.
- No evidence offered of demand for a retirement village in this location.
- No evidence justifying retirement village in protected landscape of SDNP.
- Design incompatible with the original Sanatorium and Chapel, and even with some of the later developments.

- Density more appropriate for a university campus.
- No provision for affordable housing.
- Water companies in SE England struggling to provide sufficient clean water for existing demand. This site is no exception and relative isolation renders it more difficult.
- Occupants would have no option but to travel by car or taxi for all requirements. Parking facilities would be damaging to Heritage site and inadequate.
- Adding daily vehicle journeys would exacerbate an already serious problem in terms of air quality.
- Query whether restaurant in the Chapel would be viable and subsidising by charging residents is draconian and unfair. If restaurant fails, the problem of preserving the Chapel building will remain.

## 5.7 I Letter of Support

- The Chapel building is lying unused and has been for several years. Important that it be re-opened for use and fulfil its potential, and this will benefit existing residents, as long as measures that the applicant has said it will take are taken and enforced
- Enforcement will be more difficult in terms of car usage by visiting members of the public so would be interested to hear how they propose to deal with that.
- Majority of the development is discreetly tucked away behind trees, so the visual impact on existing residents will be minimal.

## 6. Planning Policy

### 6.1 Relevant Sections of National Planning Policy Framework:

- NPPF02 - Achieving sustainable development
- NPPF05 - Delivering a sufficient supply of homes infrastructure
- NPPF08 - Promoting healthy and safe communities
- NPPF09 - Promoting sustainable transport
- NPPF11 - Making effective use of land
- NPPF12 - Achieving well-designed places
- NPPF15 - Conserving and enhancing the natural environment
- NPPF16 - Conserving and enhancing the historic environment

### 6.2 Most relevant Policies of Adopted South Downs Local Plan (2014-2033) (A full list of relevant policies can be found in Appendix I

- Strategic Policy SD4 – Landscape Character
- Strategic Policy SD5 – Design
- Strategic Policy SD9 – Biodiversity and Geodiversity
- Strategic Policy SD12 – Historic Environment
- Development Management Policy SD13 – Listed Buildings
- Strategic Policy SD25 – Development Strategy
- Strategic Policy SD27 – Supply of Homes

### 6.3 Relevant Policies of South Downs Management Plan (2020-2025)

- Partnership Management Plan Policy 1
- Partnership Management Plan Policy 9

- Partnership Management Plan Policy 10

#### 6.4 Other Relevant Policy Documents (including SPDs and TANs)

- Adopted Affordable Housing SPD
- Adopted Parking SPD
- Adopted Sustainable Construction SPD
- Dark Skies TAN
- Ecosystems Services Statement TAN
- Sustainable Construction TAN

### 7. **Planning Assessment**

#### Background

- 7.1 This application should be seen against the background of the previous applications refused in 2020 for residential development at the site. The submission have sought to address earlier concerns about design and layout issues on the previous application whilst submitting the scheme for an “Extra Care” development. The applicants have put forward their case why additional development over and above that approved in 2011 should be approved as exceptional development, on the premise that they consider this the only feasible scheme to bring an end user to the Chapel, which is a designated Listed Building.
- 7.2 As a starting point it is important to mention that the original application for comprehensive development was considered to be major for the purposes of Paragraph 176 and 177 (previously encapsulated within PPS7 when the original application was considered). Given that the principle of major development was accepted on the original application and this scheme seeks amendments to two of the areas where extant approval already exists for residential development, it is considered that the proposal accords with this part of the NPPF.

#### Principle of development

- 7.3 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).
- 7.4 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.
- 7.5 The policy confirms that the scheme should also address the matters set out in Historic England Guidance “*Enabling Development and the Conservation of Significant Places*”. The document concerned has subsequently been replaced by the Historic England document “*Enabling Development and Heritage Assets*”.
- 7.6 The earlier schemes for both sites in 2019 as a form of 'enabling development', which were refused, were considered to provide little by way of benefits over and above that already secured under the original permission. 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.

- 7.7 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), which is not unusual for such a scale of project with many unknowns and a volatile market. 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 most 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) and can be enforced. Work is currently being carried out on the remaining heritage assets by the current owners of those (City and Country).
- 7.8 Difficulties in securing an end user for the approved use of the Chapel appear to be 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 sites which are the subject of this application and that for Superintendents Drive, albeit the pool element of the building continues to be used by residents.
- 7.9 The applicant has put 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. The Historic England Guidance states that *“The purpose of enabling development is not just to repair the heritage asset, but also to secure its future, as far as reasonably possible. Once repaired, proper and regular maintenance should ensure no further enabling development will be required.* The applicants Consider that their proposal effectively ensures both the future of the Chapel in terms of its maintenance and an ongoing use.
- 7.10 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.
- 7.11 In particular the Historic Buildings Officer has continued to monitor the condition of the Chapel. There are clearly elements that require attention sooner rather than later, which would be part of the future maintenance of the Chapel already secured.
- 7.12 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.
- 7.13 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.
- 7.14 So, even in the absence of an end user (which is considered to be logistically difficult 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 (and having regard to the refusal in 2020) 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 in relation to future maintenance or secure a risk free future use of the Chapel.

- 7.15 The applicants earlier suggestions to secure the ongoing use for the Chapel, included a Chapel use strategy, business plan and evidence that the use is likely to be economically viable. In addition, at the level of 25% occupancy the applicant should complete the Chapel works and secured the commencement of the Chapel Use. The owner would procure that the use would subsist for at least 10 years from first occupation and the Authority would have step-in rights.
- 7.16 The latest application includes a suggestion from the applicant to agree to a "keep open" obligation within a Section 106 Agreement, (these covenants being a mechanism requiring an operator to actively trade for a specified duration). The applicants would bind itself to ensuring the Chapel is used as a shop/Café for a period of 15 years. Officers remain concerned about the ability through the S106 to ensure a restaurant use. In the event that the Applicant were unable to ensure the ongoing use as a restaurant, it is unlikely that the Authority would successfully be able to enforce through the Courts.
- 7.17 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. If the development is truly seen as that necessary to ensure an end user for the Chapel as enabling development then technically the development should be no more than is necessary to secure the works or use to the heritage Asset. The costing details have been scrutinised by both an independent Valuer (Bruton Knowles) and The Historic Buildings Officer.
- 7.18 Firstly the Independent valuer raised concern initially that the enabling development significantly exceeded the Conservation Deficit and was not considered the minimum amount of development necessary to satisfy the Conservation Deficit. They raised that the major area of disagreement between the parties related to:-
  - Build costs relating to the enabling development
  - The assessment of professional fees
  - The assessment of the Residual Land Value of the enabling development by reference only to a residual appraisal without cross-referencing to evidence from comparable development land transactions.
- 7.19 Moreover the applicant was not carrying out a traditional Enabling Development assessment but was instead merely comparing the residual land value of the proposed development incorporating the costs and values associated with the conservation deficit. This appeared to be with the view to concluding that the RLV of enabling development does not exceed the RLV of the extant schemes and therefore no surplus arises to support an argument that the Enabling Development is the minimum amount required
- 7.20 The applicants responded to the concerns raised by the Valuer (Specifically in relation to allowing for Land Value in its assessment) expressing concern that the Value considered the inclusion of land value as a cost being inappropriate in the particular circumstances relating to enabling development.
- 7.21 In response the Valuer re-iterates that their role is to consider if the enabling development is the minimum necessary to protect the significant of the heritage asset. They have carried this out with reference to methodology prescribed by Historic England advice. The clear conclusion is that the extent of the proposals clearly exceeds that necessary to preserve the asset. The valuer considers that the applicant appears to be operating on the basis that permission was previously granted for a 'major' development and therefore an alternative 'major' development should be granted regardless of the circumstances and the requirement to satisfy Policy SD12 9c).

- 7.22 In conclusion, on this matter, there are clearly differences in ways of measuring the viability and it is considered that the approach taken by the Valuer is robust and complies with policy and advice, and that ultimately the values generated are above those required.
- 7.23 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.
- 7.24 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 Heritage (2020).

Whether the Development falls within Use Class C2 or C3

- 7.25 The applicant has put forward the proposals on the basis that the development falls within Class C2. The Affordable Housing SPD confirms that the introduction of different forms of care such as that proposed often take the form of self contained dwellings as part of a wider housing complex or estate. It does confirm that the distinction between use classes C2 & C3 become less clear in such cases.
- 7.26 Where there is doubt, the SPD confirms the Authority will presume in favour of Use Class C3 and the onus is on the developer to demonstrate otherwise. The applicant has provided information against the criteria set out in the SPD to assist consideration of the matter. It is considered, on balance, that the applicants proposals fall within C2. Whilst there are some queries about the ability of some of the buildings to be generous and adaptable to changing needs, this would appear to be less so with the dwellings in Superintendents Drive. Notwithstanding, given the information provided, the balance tilts towards C2.
- 7.27 Given this, the development would not be subject to the need for a provision of affordable housing. Whilst much local interest has centred on a recent high court judgement where it was considered that C2 housing could require an element of affordable housing, it is considered that there are subtle differences between that case and the circumstances here.
- 7.28 The case related largely to the interpretation of policies in the development plan and how they were interpreted in relation to the provision of affordable housing.
- 7.29 Policy SD28 is the relevant SD policy and the explanatory text at paragraph 7.56 states “All development falling within Use Class C3 is subject to Policy SD28, including any retirement or assisted living accommodation within this use class.”. The Affordable Housing SPD then builds upon this by stating at 2.6 that “Developments falling into the Use Class C1 (hotels) and C2 (residential institutions) do not attract the requirement for affordable housing.” The policy position is therefore much clearer and an argument could not be raised that any development falling within Use Class C2 would be subject to the requirements of SD28.
- 7.30 It must also be noted that, the development falling within Use Class C2 means that whilst it would be CIL liable, it would attract no charge..

Housing/Extra Care Need

- 7.31 Policy SD27 (3) confirms that proposals will be permitted for residential development that provides flexible and adaptable accommodation to meet the needs of people who are less mobile, or have adult homecare requirements. It states that development proposals of 5 or more homes will be permitted where it is clearly demonstrated that evidence of local need for older people’s is reflected in the type of homes proposed.
- 7.32 The explanatory text at Para 7.42 supplemented by Figure 7.3 indicates that the estimated need for specialist market housing for extra care between 2014-2033 would be 152 units. It must also be noted that the original approved development for the site included an element of ‘assisted living’ units, partly at the behest of residents views at the time to maintain a connection with hospital and care type uses. These type uses were subsequently removed from the scheme as was as at the time the owners of the site were having difficulties attracting interest from service providers. Therefore the general principle of Extra care accommodation as opposed to C3 residential dwellings is in principle acceptable



(notwithstanding the issues raised above in relation to quantum of development pertaining to the perceived benefits of the scheme).

#### Landscape/Design and Layout

- 7.33 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.
- 7.34 The previously refused application for Kings Green East was a contemporary scheme which had a more organic approach and had less uniformity in its layout. There were concerns that the approach had not been landscape led.
- 7.35 As part of a number of Design Review Panel workshops, the applicants sought a scheme which provided “rigour, order and elegance.” As part of the evolution of the scheme, a return was made to the more structured road layout of the original scheme for the site, with efforts made to replicate the strong development edge facing onto Kings Green to effectively mirror Kings Green West to a certain degree. The resultant development of Kings Green East is considered to be a measured approach to regaining some order and rigour of the original approval. Whilst the scheme is, again, contemporary in its design, it is considered that the approach is much more muted than that previously refused and provides a better link to the remainder of the Estate by way of materials. These include red multi brick that complements the properties in Kings Green West and clay roof tiles.
- 7.36 The height of the buildings and incorporation of chimneys/dormers is considered acceptable and adds definition to the scheme. Whilst it is arguable as to whether the height will compete with that of the surrounding trees and be overbearing, on balance it is considered that this relationship is acceptable.
- 7.37 The introduction of a central ‘village green’ landscaped area with a proposed village hall building on the Eastern side is considered to be a suitable landscape response in this location. The introduction of a pedestrian link between the development and the Superintendents Drive element is considered to be a suitable response in relation to permeability throughout the site. Whilst inevitably concerns are raised about the impact this would have on the wider estate and this registered park/garden, it is considered this incursion in the Drive would be acceptable subject to conditions ensuring the access is low key.
- 7.38 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.
- 7.39 Moving to the Superintendents Drive site, it is important to remember that the previous proposal for 18 dwellings was refused on landscape/design grounds given that “*The proposal by virtue of its reduce plot size would result in a more cramped appearance within the site, with the rear of the dwellings dominated by parking, refuse storage and other infrastructure, together with limited private amenity areas and boundary fencing/walls*”.
- 7.40 The proposal now is for 14 dwellings on this site, and whilst the development is still tight within the plot, it is considered that the layout has a better arrangement allowing for more subtle landscaping to the rear with a degree of formality linking to the rest of the site (including the formal Jekyll Gardens down by the Sanatorium)
- 7.41 The terraces do have a contemporary feel to them and are closer to the road than the terraces opposite to the East, but it is not considered that they would be so different as to

jar with the predominant terrace character in this corner of the development. The materials palette includes red multi-brick complementing the houses in Sir Geoffrey Todd Walk. Relief is provided through recessed panels. Clay roof tiles are proposed, with a grey mix tile selected to provide some contrast with the red brick walls.

- 7.42 Concern has been raised relating to the loss of a protected tree on this site. The principle of the loss of this tree (subject to a replacement elsewhere on site) was established on an earlier approval and it is considered an objection could not be raised on this matter.
- 7.43 Given the above, it is considered that the concerns raised on the previous proposal have now, on balance, been addressed, resulting in an acceptable development on this part of the site (from a purely design and landscape perspective).
- 7.44 It is also considered that the two development sites would have an acceptable relationship with the existing heritage assets within the sites and would not be at odds with the prevailing character. In particular, it is considered that the Kings Green East development will not impact significantly on the Lodge building. Nor would the development compete with the Sanatorium building, with the boundary trees providing some screening from views across to the Sanatorium.
- 7.45 In conclusion, it is considered that the proposals have adopted a landscape led approach and the proposals are considered acceptable in this regard and in accord with Policies SD4, SD5 and SD12 of the Local Plan.

#### Impact on the Chapel

- 7.46 The proposals for the Chapel, in terms of impact on the Listed Building, are considered in more detail in application SDNP/21/06433/Lis which is considered concurrently with this application. However it is considered that the building by its nature does present a number of logistical challenges to be brought into a use within the Estate.

The applicants have endeavoured to bring forward a scheme for the use as a restaurant whilst respecting the important heritage elements and character of the building. Notwithstanding, it is considered that, should Members be minded to approve the application, any approval will clearly need to be conditioned strictly to ensure the various elements of work are undertaken with extreme care. Suffice to say, the following elements within the applicants submission are areas of concern to both the Historic Buildings Officer and Historic England:-

- Concern that details of the kitchen extract have not been provided. Recommend further information with inventory of historic features and assesses likely atmospheric condition of the use and impact on the fabric over months or years.
- No assessment of the intervention of the flooring has been provided. Unconvinced by the loss of this historic fabric.
- Generally not supportive of the use of secondary glazing without strong justification. Recommend this aspect is omitted unless more convincing justification can be provided.

It is considered that the detail required could not be conditioned as it has not effectively been demonstrated that the proposed approach in these respects would be successful, in relation to the flooring and kitchen extract. Likewise, it is not considered that the use of secondary glazing has been justified. In the circumstances it has not been demonstrated that the proposals would not have an adverse impact on the fabric of the Chapel.

#### Ecology

- 7.47 Despite considerable correspondence the Ecologist remains concerned about the following:
- 7.48 Bats: The ecologist remains concerned that the application is not supported by sufficient survey effort or mitigation. It is not considered that the impact of loss of habitat is negligible.
- 7.49 Reptiles: The proposed mitigation strategy is not acceptable. It is unclear where any reptiles discovered during the supervised clearance would be moved to. The ecologist does not consider this is the sort of information that can be conditioned

7.50 Biodiversity Net Gain: Whilst the proposed offsite habitat enhancement and habitat creation could be acceptable, there is insufficient information in relation to the location of the offset area, any update BNG report, offsite pre and post condition assessment sheets or calculation spreadsheet.

7.51 In addition, concerns have been raised about insufficient surveys having been carried out in relation to the Chapel. In the circumstances, it is not considered that adverse impacts on ecological concerns have been addressed and refusal is recommended on this ground.

#### Water Neutrality

7.52 The Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations) places a duty on planning authorities when determining applications that may affect international sites to determine the potential for likely significant effects. Where proposals are likely (without mitigation) to have significant effects on international sites, the planning authority is required to undertake an appropriate assessment in order to ascertain that there would not be adverse impacts on the integrity of the international site, and whether the proposal demonstrates that impacts would be avoided or adequately mitigated against. Accordingly, Policy SD9 requires that development likely to result in a significant effect upon an international habitats site is subject to an Appropriate Assessment pursuant to the requirements of the Habitats Regulations.

7.53 The application site falls within the Sussex North Water Supply zone where new development must not add to the impact that water abstraction is having on the Arun Valley protected sites. (although it is fair to say, it is on the outer extremities of the area). Notwithstanding, ordinarily one would expect the proposed development to achieve water neutrality. However the applicant has provided documentation which appears to confirm that the Estate is currently served from South East Water via a cross border supply. This has been regularised in Articles of Instruction for both Southeast Water and Southern Water, whereby the Estate is removed from Southern Water area and placed in the South East Water Area. South East Water abstract water from the Eastbourne Aquifer for their supply area. Given the details of this information it is not considered that the applicant needs to be demonstrating water neutrality, given that the supplier for the site appears not to be Southern Water.

#### Water Provision

7.54 The matter of water supply to the Estate has been a concern for residents for some time. Concerns have been raised about the increased need for provision with this proposal. The applicant have recently confirmed that Edward VII Estates has covenanted with the applicants to procure the supply of sufficient water for the property and its use. There has been liaison with the Estate to ensure an adequate supply is maintained, having regard to the increase in demand that will result from the development.

7.55 The Estate has confirmed to the applicant that meetings with South East Water support the assumption that the private system is sufficient to serve the complete development. Furthermore there is a secondary supply via Southern water, should this be necessary. Officers have contacted South East Water and Southern Water for comment on this latest information and will update Members accordingly but at this stage difficult to see how through the Planning regime any objection on water supply grounds could be substantiated..

7.56 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. 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). It is therefore considered that the requirement to supply water falls upon the developer and water companies and a refusal on this basis could not be sustained.

#### Eco-System Services/Biodiversity Net Gain

- 7.57 The proposals include a number of elements which are considered to address the requirements of Policy SD2. These include the following:-
- Shrub and groundcover species containing a mix of native and non-native varieties chosen for their biodiversity value.
  - Introduction of resting points for residents.
  - Water butts introduced in private gardens.
  - Inclusion of allotments.
  - Introduction of green Suds features.
  - Introduction of tree planting.
  - Green Links throughout the site.
  - Introduction of a footpath network increasing connectivity.

#### Sustainable Construction

- 7.58 The proposals are considered to comply with Policy SD48 and the Sustainable Construction SPD. The sustainable elements to the development proposals include:-
- Enhanced building fabric thermal performance
  - External shading elements and use of inset balconies
  - Deep window reveals
  - Solar control glazing
  - Low air permeability.
  - Further reductions include, low or zero carbon heating technologies, ground source heat pumps, variable speed pumps, low energy light fittings, low carbon ventilation systems
  - The applicant intends for the 14 terraced houses on Superintendents Drive to be Passivhaus certified, thus exceeding the required target.
  - All car parking spaces would be provided with EV charging points.
  - Potable water consumption will be reduced through use of low consumption water fittings.

#### Other Matters

- 7.59 Amenity: The application is not considered to have an impact on the amenity of existing residents in the locality. The distance between properties on the Superintendents Drive development and Sir Geoffrey Todd Walk are considered to be reasonable and would avoid any issues of overlooking or loss of privacy.

### **8. Conclusion**

- 8.1 It is considered that the design and layout of the scheme is much improved since the earlier refusal in 2020. Whilst it is noted that the Landscape Officer and Design Officer remain concerned about some elements of the scheme, it is considered that these can be addressed by the imposition of conditions, were members minded to approve.
- 8.2 The main issue with the application relates to the overarching principle for which development is proposed and it is considered that progress has not been made sufficiently in this matter to satisfactorily demonstrate that the proposals bring significant heritage benefits to compensate for the uplift in development from that originally approved under enabling development.

- 8.3 It is not considered that the development proposed is the minimum necessary to secure the ongoing maintenance and use of the Listed Chapel and it is not considered that a suitable mechanism has been put forward to secure the ongoing use for a sufficiently long period.
- 8.4 In the absence of sufficient detail and justification in relation to the specific works to the Chapel, it has not been demonstrated that they would not have an adverse impact on the fabric of the Chapel.
- 8.5 In addition, it has not been demonstrated that the proposals would not have an adverse impact on ecological interests, Refusal is therefore recommended.
- 9. Reason for Recommendation and Conditions/Reasons for refusal**
- 9.1 It is recommended that the application be Refused for the reasons set out below.
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. There are no exceptional circumstances to justify additional C2 development 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 and the amount of development is not considered to be the minimum required to bring forward the benefits. It has also not been demonstrated that a legal agreement could satisfactorily secure the long term use of the Heritage Asset. 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 Heritage Assets (2020), the NPPF and the purposes of the National Park.
  2. In the absence of sufficient information and evidence it has not been demonstrated that the proposals would not have an adverse impact on Ecological interests or that Biodiversity Net Gain could be achieved. The proposals are therefore contrary to Policy SD9 of the Adopted South Downs Local Plan 2014-2033, the NPPF and the purposes of the National Park.
  3. It has not been demonstrated, on the basis of the submitted information, that the proposed works would preserve and enhance the significance of the listed building and avoid unacceptable impact on or loss of historic fabric and therefore would be contrary to Policy SD13 of the South Downs Local Plan 2014-2033 and the NPPF.

## **TIM SLANEY**

### **Director of Planning**

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

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Appendices:	Appendix I - Information concerning consideration of applications before committee
SDNPA Consultees:	Legal Services, Director of Planning
Background Documents	<a href="#">All planning application plans, supporting documents, consultation and third party responses</a> <a href="#">National Planning Policy Framework</a> <a href="#">Defra: English National Parks and the Broads – UK Government Vision and Circular 2010.</a> <a href="#">South Downs National Park Partnership Management Plan</a> <a href="#">South Downs Local Plan 2019</a> <a href="#">Historic England Guidance – Enabling Development and Heritage Assets (2020)</a>

### **Information concerning consideration of applications before committee**

Officers can confirm that the following have been taken into consideration when assessing the application:-

#### **National Park Purposes**

The two statutory purposes of the SDNP designation are:

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

If there is a conflict between these two purposes, greater weight shall be given to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in a National Park, whereby conservation takes precedence. There is also a duty upon the National Park Authority to foster the economic and social wellbeing of the local community in pursuit of these purposes.

#### **National Planning Policy Framework and the Vision & Circular 2010**

The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied. It was first published in 2012. Government policy relating to National Parks is set out in English National Parks and the Broads: UK Government Vision and Circular 2010.

The Circular and NPPF confirm that National Parks have the highest status of protection in relation to landscape and scenic beauty. The NPPF states at paragraph 176 that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks and that the conservation and enhancement of wildlife and cultural heritage are important considerations which should also be given great weight in National Parks. The scale and extent of development within the Parks should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

#### **Major Development**

Paragraph 177 of the NPPF confirms that when considering applications for development within the National Parks, permission should be refused for major development other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest.

For the purposes of Paragraph 177 whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.

For the purposes of this application, assessment as to whether the development is defined as major for the purposes of Para 177 is undertaken in the Assessment Section of the main report.

#### **The Town and Country Planning (Environmental Impact Assessment) Regulations 2017**

A screening opinion has concluded that for reasons of scale, use, character and design and environmental considerations associated with the site, the proposals are not EIA development within the meaning of the relevant 2017 legislation. Therefore, an EIA is not required.

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

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.

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".

## **The Conservation of Habitats and Species Regulations 2017**

Following a screening of the proposals, it is considered that a likely significant effect upon a European designated site, either alone or in combination with other proposals, would not occur given the scale, use, and location of what is proposed. Consequently, an Appropriate Assessment under a Habitats Regulation Assessment is not required.

## **Relationship of the Development Plan to the NPPF and Circular 2010**

The development plan policies listed within the reports have been assessed for their compliance with the NPPF and are considered to be compliant with it.

## **The South Downs National Park Partnership Management Plan 2019-2025**

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. Relevant Policies are listed in each report.

## **South Downs Local Plan**

The South Downs Local Plan (SDLP) was adopted by the Authority in July 2019. All development plan policies are taken into account in determining planning applications, along with other material considerations.

The Planning and Compulsory Purchase Act 2004 S38 (6) confirms that “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise”.

## **All policies of the South Downs Local Plan which are of relevance to this application**

- Core Policy SD1 - Sustainable Development
- Core Policy SD2 - Ecosystems Services
- Core Policy SD3 - Major Development
- Strategic Policy SD4 - Landscape Character
- Strategic Policy SD5 - Design
- Strategic Policy SD7 - Relative Tranquillity
- Strategic Policy SD9 - Biodiversity and Geodiversity
- Development Management Policy SD11 - Trees, Woodland and Hedgerows
- Strategic Policy SD12 - Historic Environment
- Development Management Policy SD13 - Listed Buildings
- Strategic Policy SD17 - Protection of the Water Environment
- Strategic Policy SD19 - Transport and Accessibility
- Strategic Policy SD20 - Walking, Cycling and Equestrian Routes
- Development Management Policy SD21 - Public Realm, Highway Design and Public Art
- Development Management Policy SD22 - Parking Provision
- Strategic Policy SD25 - Development Strategy
- Strategic Policy SD26 - Supply of Homes
- Strategic Policy SD27 - Mix of Homes

- Strategic Policy SD28 - Affordable Homes
- Strategic Policy SD29 - Rural Exception Sites
- Strategic Policy SD34 - Sustaining the Local Economy
- Development Management Policy SD43 - New and Existing Community Facilities
- Strategic Policy SD45 - Green Infrastructure
- Strategic Policy SD48 - Climate Change and Sustainable Use of Resources
- Strategic Policy SD49 - Flood Risk Management
- Development Management Policy SD50 - Sustainable Drainage Systems
- Development Management Policy SD51 - Renewable Energy
- Development Management Policy SD54 - Pollution and Air Quality

### **Human Rights Implications**

These planning applications have 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.

### **Equality Act 2010**

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

### **Crime and Disorder Implication**

It is considered that the proposal does not raise any crime and disorder implications

### **Community Infrastructure Levy**

**IMPORTANT NOTE: This application is not liable for Community Infrastructure Levy.**