

<b>Date of Meeting</b>	7 <sup>th</sup> September 2023
<b>Application Number</b>	PL/2023/00207
<b>Site Address</b>	Cross Keys Inn, Upper Chute SP11 9ER
<b>Proposal</b>	Demolition of existing buildings and erection of 1 no. detached dwelling; with associated parking, turning, landscaping, private amenity space and access.
<b>Applicant</b>	S & A Moore Ltd
<b>Town/Parish Council</b>	Chute
<b>Electoral Division</b>	Ludgershall North and Rural – Cllr Christopher Williams
<b>Grid Ref</b>	<b>429,431 – 153,891</b>
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Lynda King

### **Reason for the application being considered by Committee**

This application is brought to this Committee due to the call in from Cllr Christopher Williams who has requested that the application be determined by the Planning Committee if officers are minded to refuse, since Cllr Williams considers the proposed new detached dwelling to be acceptable and in conformity with the Chutes Design Guide.

### **1. Purpose of Report**

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be refused.

### **2. Report Summary**

The main issues which are considered to be material in the determination of this planning application are listed below:

- The Principle of Development
- Heritage and Design
- Ecology Impacts

Chute Parish Council support the application. 2 letters of objection have been received from third parties, whilst one third-party letter of support and 4 letters making general comments on the proposal were received

### **3. Site Description**

The application site relates to the former Cross Keys Inn property which extends to about 0.3 hectares and is located within the Conservation Area of Upper Chute, which is a small village with no defined settlement boundary, about 4km from Ludgershall and located within the North Wessex Downs AONB.



The Cross Keys Inn (shown above) ceased trading in early 2017, and benefitted from planning permission being granted in December 2019 (under application 19/09571/FUL) to convert the property to a single dwelling when it was demonstrated that the public house was no longer viable.

It is noteworthy to mention that local residents previously made an approach to Historic England to see whether the building was suitable to be Listed, but a decision was made in October 2019 not to List the building.

The existing building is argued by the applicant's agent to be *"in a poor state of repair and has been the subject of vandalism and break-ins in recent years. The wider site is characterised by large areas of hardstanding, overgrowth and has suffered from fly tipping on a number of occasions"*. The following site photo of the rear of the former Inn reveals the current visual appearance.



The site is sandwiched between Haybourne Cottage and Eli Cottage, to the west and east respectively, both of which are residential dwellings. Immediately to the south of the site is Malthouse Lane (from which the site is accessed), beyond which is agricultural land.



The subject property is a two-storey building having a domestic appearance, constructed of white painted brick under a slated roof, which has been extended and altered (somewhat unsympathetically in the past) incorporating a number of materials namely brick, flint, render, timber boarding, slate and felt.

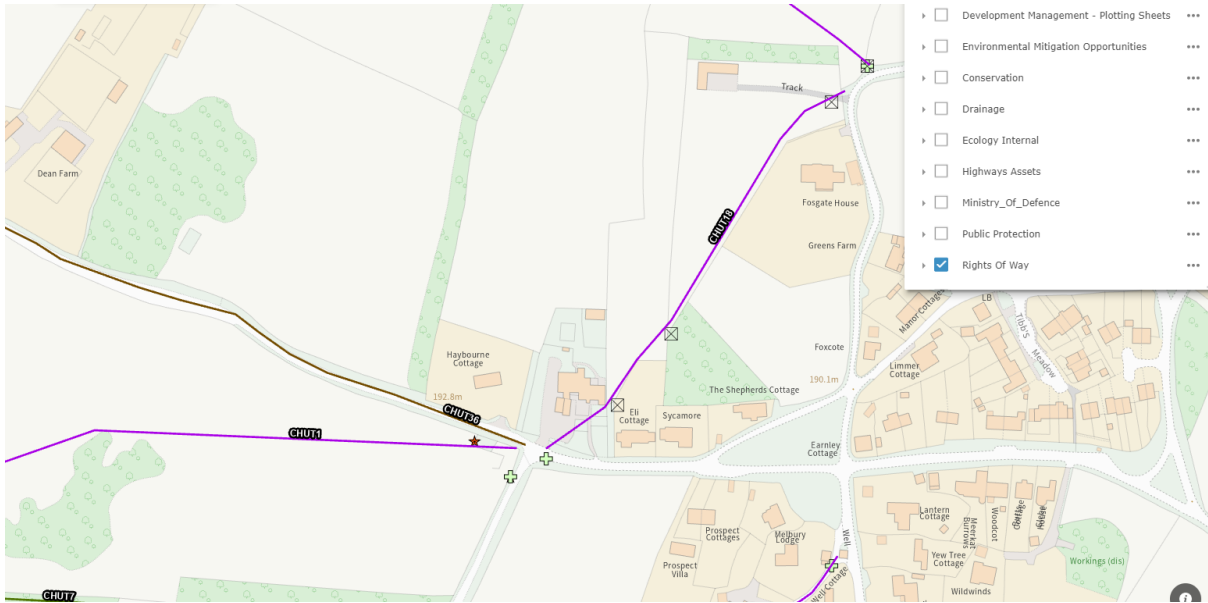
The site is physically well contained, with well-established tree planting defining the eastern and western boundaries of the site. None of these are covered by a Tree Preservation Order.

With regards to topography, there appears to be a gentle rise in levels across the development site generally from south to north.

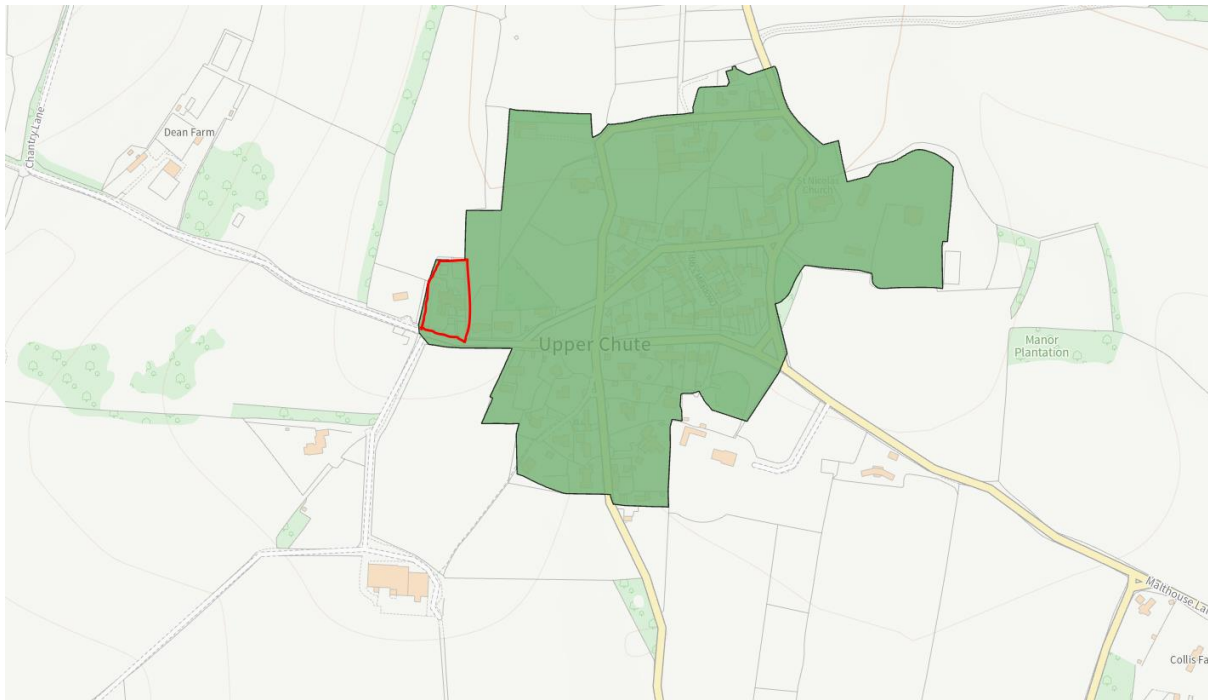
There is a large, wooden outbuilding projecting to the south (front) of the building with various out buildings within the curtilage. The front of the property is laid to lawn and garden, with the previous area of car parking to the west. This is a gravelled area with access from the highway.

There are single storey dwellings either side of the premises, but these are not readily visible from within the site due to the well-established level of landscape planting, with the Cross Keys Inn being set back from the highway.

The application site is near the edge of the village, where the access road turns into a series of bridleways and footpaths. There are extensive and wide-ranging views from the property to the south and west, and a public footpath (PROW CHUT18) crosses the front of the site on a diagonal route and needs to be accommodated as part of any re-development of the site.



Location Plan with footpaths shown



Location Plan with Conservation Area boundary around village (application site shown in red)

#### 4. Planning History

E/2013/0307/FUL - Change of use of public house to form single dwelling; planting and landscaping to form residential gardens. Refused. Appeal Dismissed.

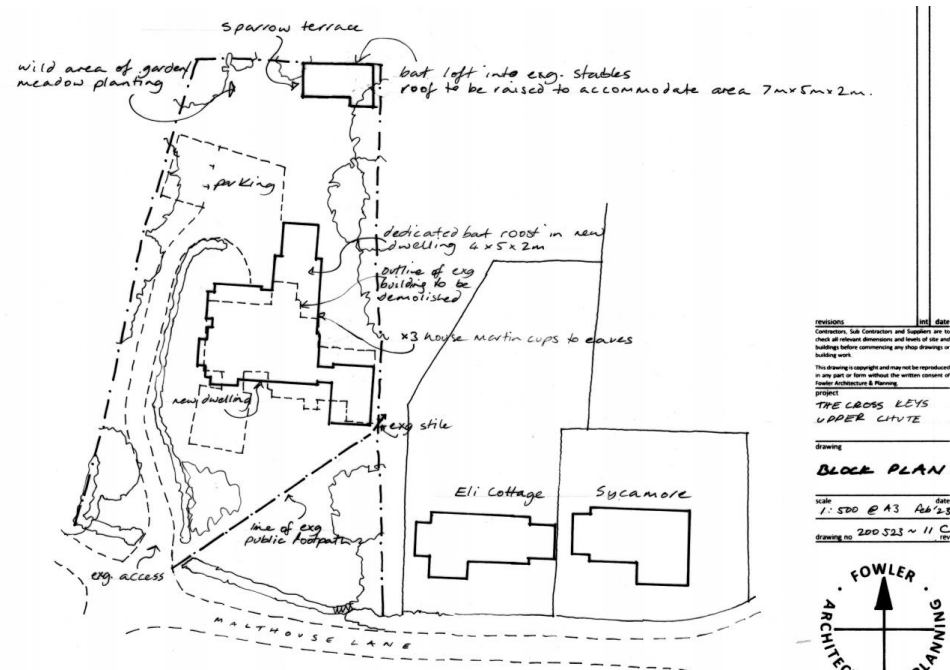
19/09571/FUL – change of use from public house into a single dwelling – Approved

20/06874/FUL – demolition of existing buildings and construction of a new residential dwelling with separate garaging – Refused. Appeal dismissed

PL/2022/04050 – Certificate of Lawful use – material operations pursuant to, and consistent with, development granted under planning permission 19/09571/FUL – Certificate Granted

## 5. The Proposal

The application proposes the demolition of the existing building and its replacement with a single dwelling with separate garaging.



## 6. Local Planning Policy

National Planning Policy context.

*National Planning Policy Framework (NPPF) and National Planning Practice Guidance (PPG)*

NPPF - Paragraph 11 sets out the presumption in favour of sustainable development. Development plan proposals that accord with the development plan should be approved without delay. Where the development plan is absent, silent or relevant policies are out-of-date then permission should be granted unless any adverse impacts of approval would significantly and demonstrably outweigh the benefits when assessed against the NPPF or specific policies in the NPPF indicate development should be restricted.

Relevant NPPF sections include:

*Section 8 – promoting healthy and safe communities*

*Section 11- making effective use of land*

*Section 12- achieving well-designed places*

*Section 15 – conserving and enhancing the natural environment*

*Section 16 – conserving and enhancing the historic environment*

Wiltshire Core Strategy:

CP1 – Settlement Strategy

CP2 – Delivery Strategy

CP26 – Spatial Strategy: Tidworth Community Area

CP50 - Biodiversity and Geodiversity

CP51 - Landscape  
CP57 - Ensuring High Quality Design & Space Shaping  
CP58 - Ensuring the Conservation of the Historic Environment

Chute Design Guide 2022

## **7. Summary of consultation responses**

Chute Parish Council - Supports this application in principle but on the condition that the public Right of Way at the front of the building is preserved. On the current plans, the right of way would run through the proposed garden room. The architect re-submitted plans showing the building moved back slightly on the site and adding the RoW in front of the property as clearly defined.

WC Conservation Officer – Objects (comments are discussed in detail within section 9.2 below)

WC Ecology Officer – No objection subject to conditions to amended plans

WC Highways Officer – No objection

WC Rights of Way Officer – No objection to amended plans

SAVE Britain's Heritage - SAVE Britain's Heritage strongly objects to the above planning application for the demolition of Cross Keys Inn, Upper Chute on the basis that the proposal involves the total loss of non-designated heritage asset (NDHA), which we consider makes a positive contribution to the fabric and significance of the designated Upper Chute Conservation Area. This loss would constitute substantial and unjustified harm in heritage terms, and therefore fails to comply with national and local policy for preserving Wiltshire's historic environment. On this basis we call on the Local Planning Authority to refuse planning permission.

## **8. Publicity**

The application was advertised by a Site Notice and posted-out notification letters to neighbouring properties. The application generated 2 letters of objection, one letter of support and 4 letters making general comments on the proposal. These comments are summarised below:

Objection:-

- The previous appeal was dismissed because of the detrimental effect on the character and appearance of the Conservation Area and AONB. This proposal is for an even bigger house than before and will still have a detrimental effect
- The design and mass of the proposed dwelling will appear dominant in its surroundings
- The proposal will conflict with policies 57 and 58 of the Core Strategy
- The proposal contravenes Policy 5 of the recently adopted Chute Design Guide
- The applicant's Structural Comments give no convincing reason why renovation should not be possible.
- The building appears to have been allowed to dilapidate so that it can be replaced
- The replacement would lead to the destruction of a local and historic building, which would set a dangerous precedent

- There are bats in the building, and are protected therefore a full assessment of the bat roost will be required.

Support:-

- Generally in favour of the new design
- As a historic community reference point it is important to honour the building's significance as a past meeting point and ancient way marker.
- The new south elevation goes some way to reflect Cross Keys as it was, whilst blending into a new home
- Would not like to see the height and mass to increase any further in the future

General Comments:-

- With the local historical significance of the original Cross Keys building I am dismayed that more is not being done to retain the existing building
- The recently adopted Chute Design Guide is a material consideration and the development should be considered against the policies in this document.
- The current route of footpath CHUT18 would benefit from being diverted between the site and Eli Cottage. This realignment would be supported by the local Ramblers Group.
- The plan should accurately show the route of the existing right of way
- The applicants should consider what the role of their part of CHUT18 could be in the general discussion that has been going on in the village about creating a easy to use circular path around the village

## 9. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

### 9.1 Principle of development

The site lies on the edge of the village of Upper Chute, within the Conservation Area, and within the North Wessex Downs AONB. Upper Chute is designated as a small village and therefore does not have a settlement boundary. All new housing proposals within small villages require to be assessed on their own merits and acceptability on providing windfall infill housing.

Planning permission was previously granted in 2019 for the conversion of the existing former public house, with some minor alterations to remove some external structures, to a form a dwelling (application 19/09571/FUL refers). This application followed a previous refusal of planning permission (E/2013/0307/FUL) to change the use of the pub to a dwelling on the grounds that the proposal did not satisfy Policy CP49 (Protecting Rural Services and Community Facilities) in that it had not been demonstrated that the public house was no longer viable. That decision was supported at appeal.

Evidence was submitted in support of the 2019 application to demonstrate that efforts had been made to run the pub as a community effort, but that this failed, which then led to the premises being marketed for a considerable length of time as a business, but that there was no interest forthcoming in taking on the public house operation as a going concern.

The grant of planning permission for the change of use of the building to a dwelling involved a very light touch to the fabric of the building, which minimised the extent of demolition works

to the removal of an external staircase, the rear conservatory, and a storm porch. There was no suggestion at the time that the structure of the building was not capable of conversion to a dwelling in accordance with the submitted plans. The Planning Statement which accompanied the 2019 application commented in respect of the Heritage Impacts of the proposed conversion that: -

*“The NPPF paragraphs 189-201 (Officer note – this refers to a previous version of the NPPF) considers the impact of development on the historic environment. In particular at paragraph 192 local authorities must take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them into viable uses consistent with their conservation.*

*The public benefits of the proposal are that overall the scheme benefits the conservation area and ensures the sustainable use of the site by repair and protection of the built fabric by giving the buildings a positive use. In addition, the overall appearance of the conservation area will be improved by the new use. In terms of heritage impact the balance is a positive one.”*

Planning permission was therefore granted for the change of use of the building to a substantial 6-bedroom dwelling, and evidence was submitted in 2022 (under PL/2022/04050) to demonstrate that works to convert the building to a dwelling, by way of the demolition of the rear conservatory, had materially commenced. At that stage the condition of the building and its suitability for conversion were not questioned or argued to be no longer viable.

The current application proposes the demolition of the existing building and its replacement with a new dwelling.

The elevations of the existing dwelling are shown below: -



CROSS KEYS

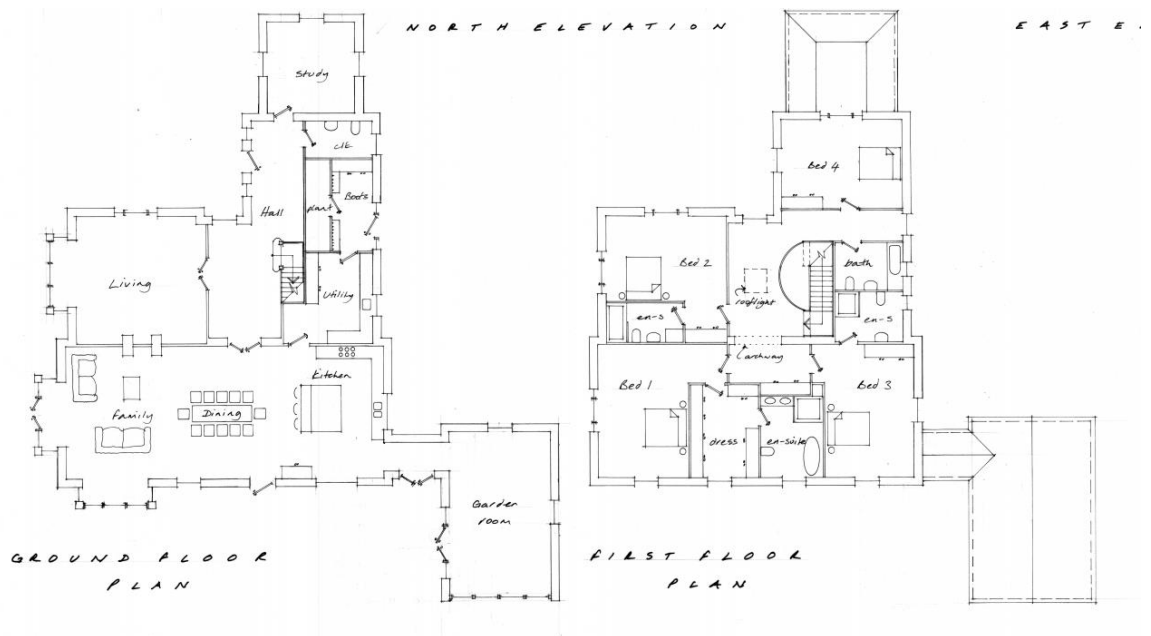


The proposed elevations are shown below:-

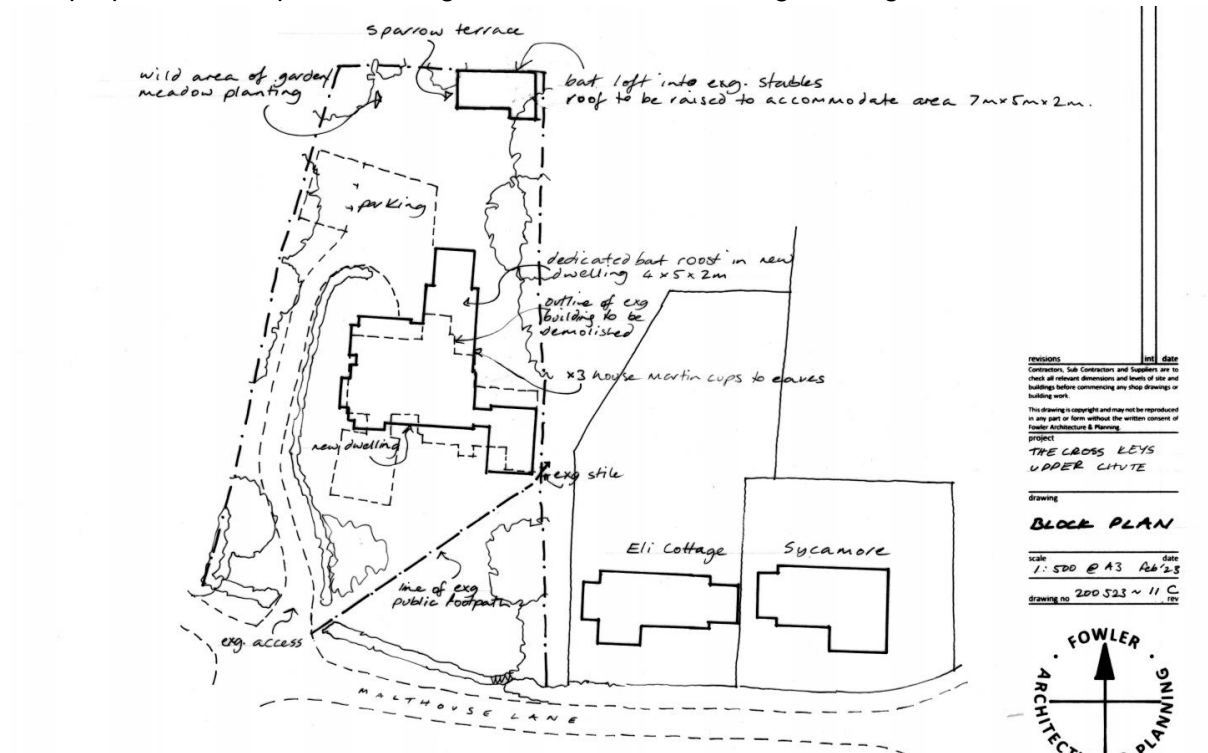




The Proposed Floor Plans are shown below: -



The proposed block plan, showing the outline of the existing building dotted, is shown below:



A Structural Report, based on a visual inspection of the existing building only, to assess the structural integrity of the building and its suitability for renovation, has been submitted in support of the application. It concludes that:-

*The buildings at The Cross Keys Inn that are currently being considered for renovation to habitable living accommodation are in a state of degradation and dilapidation that is considered, to be placing them in a state of limiting stability. Renovation work will involve the substantial removal of roof and floor elements that are degraded and unsuitable for reuse which is likely to cause the remaining the walls, to partially collapse or complete collapse of the farmhouse.*

*There is likely to be no suitable foundation under the existing walls. There has been sufficient movement at foundation level to cause cracking over and under all the windows in the main building. The capacity for the walls to be able to have underpinning applied is low. In summary there is limited opportunity to rectify the numerous structural issues with the buildings and it is therefore the opinion of Kevin Palmer that there is no further alternative but to rebuild the building.*

The above assertion has its limitations being based on a visual inspection only and is not informed by a detailed and dimensional survey of the building, nor does it ascertain the condition of any structural elements not visible to the naked eye without the need for any opening up. Both the Council's Conservation Officer and SAVE Britain's Heritage consider the building to be capable of conversion, and officers are consequently not convinced that demolition is necessary. The following quote taken from SAVE Britain's heritage consultation response merits due weight:-

*"SAVE considers the Cross Keys Inn to be capable and worthy of being retained and sympathetically restored as part of any future redevelopment of this site. In doing so, a key*

*part of Wiltshire's architectural heritage would be preserved for future generations. Approving demolition without justification or evidence of how and why retention of any kind is not possible, risks setting a dangerous precedent for the piecemeal demolition of other NDHAs (Non-Designated Heritage Assets) in Wiltshire".*

In December 2022, Wiltshire Council adopted the Chute Design Guide as a material consideration in the determination of planning applications within the village concerned. The Guide seeks to ensure that new developments in the village respects the essential character of the 'Chutes', as concerns had been expressed about infill development and replacement dwellings in the area.

The Design Guide seeks to ensure that replacement dwellings are not substantially larger than the existing and is an overall design that is not overbearing or detrimental to the amenity of nearby residents. The policy relating to infill development seeks to ensure that the new dwellings are small (no more than 120sqm gross internal).

Documentation submitted in support of the application argues that this proposal is a replacement building for the redundant public house, and should therefore be treated as infill. On that basis the current proposal would not meet the criteria in Policy 5 of the Design Guide as the property is substantially in excess of 120sqm as it is larger than the building on site at the moment, which is 445sqm according to the application form. However, it should also be noted that the applicants have sought confirmation that works to commence the conversion of the pub to a dwelling have taken place and therefore the history of the building and the site is more complex that does not fit easily within the criterial relating to infill in the village.

Officers submit that given a material start has been made to convert the public to a dwelling under the consented 2019 application, this application for the demolition of the former Inn be treated as a replacement dwelling for the purposes of the Design Guide, which does allow for dwellings to be increased by up to 30% of their original internal gross floor area, and it should be noted that he current application would appear to comply with that provision of the policy.

## 9.2 Heritage Impacts

The site lies within the Upper Chute Conservation area, and therefore the Council has a statutory duty under section 72 of the Planning (Listed buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character of a Conservation Area. CP57 and CP58 of Wiltshire Core Strategy apply with regard to design and heritage expectations.

The NPPF states:

*196. Where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.*

*199. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.*

*200. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.[etc]*

201. *Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:*

*a) the nature of the heritage asset prevents all reasonable uses of the site; and*

*b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*

*c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and*

*d) the harm or loss is outweighed by the benefit of bringing the site back into use.*

202. *Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.*

203. *The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.*

Guidance on the assessment of the contribution(s) made by unlisted buildings to the character of a conservation area is provided within Historic England's *Guidance on Conservation Area Appraisals* Appendix 2 (2006).

Among the tests of historic interest suggested, this building satisfies several. Your Officers are firmly of the opinion that the former Cross Keys Inn makes a positive contribution to the character of the CA by virtue of its evident age, traditional form and materials, and for its significant historic cultural role in the community.

The building does have some unremarkable additions to the rear, and a 20th century side extension, but its frontage and forward outbuilding (its timber-clad rustic nature complementing the setting of the rendered inn) are unmistakably early 19<sup>th</sup> century.

The appeal inspector in determining the previous refused application which sought to demolish and replace the building in 2020 (under application 20/06874/FUL) reached a similar conclusion and argued:

*8. Whilst the properties in this part of the settlement appeared to be of varying ages, the older buildings provide historic interest and context and as such they contribute positively to the character and appearance of the Conservation Area. By reason of its age, traditional scale and appearance, and given its location in a prominent position at the edge of the settlement, in my view the appeal property has historic significance, forming part of the historic fabric of the area. Consequently, I find that the appeal site and existing buildings make a positive contribution to the character and appearance of the Conservation Area.*

*9. However, the positive contribution made to the Conservation Area would be limited by reason of the unsympathetic nature of previous alterations and extensions to the rear of the*

*former public house. Nevertheless, and despite its condition and the alterations that have been previously made, it still makes a limited positive contribution to the Conservation Area.*

The degree to which the additions to the rear impact on the public realm or the appreciation of the historic character of the building, is debatable as the fact that they cannot be readily seen from the public realm, diminishes their impact, and since the date of the previous appeal, one of these features, namely the modern conservatory, has already been demolished (to demonstrate the commencement of the 2019 approved conversion application).

There is significant public interest in historic buildings within villages, especially those that have or have had community functions. Residents will know where those buildings are, and that awareness lasts long beyond any 'change of use'. Those walking past the site would know (or say to guests) "that used to be the village pub", which contributes to our understanding of our villages/ communities. The alternative which would apply, if this application is approved) would be a case of saying "that's where the historic village pub used to be". There is significant desirability of properties of the 'the old rectory/chapel/post office/school/pub' variety, and that interest is widely recognised.

The earlier conversion scheme (in 2019) referred to the public heritage benefits of the proposal, and made no claims that the building was beyond repair. The current application has a structural assessment referred to above, and this also does not claim or demonstrate that it cannot be repaired carefully. The condition of the building is not irrelevant, but its deteriorated state since 2019 has been attained through neglect and, as per NPPF paragraph 196, such neglect should not now weigh in favour of demolition. Indeed, it has been noted that some local residents have commented that there has been little apparent effort to secure the building in recent times, which is really disappointing given that consent was granted in 2019.

With regard to the requirements of s72, great weight should be given to the desirability of proposals preserving or enhancing a CA. Unless a building makes a neutral or negative contribution to the character of a CA, it is highly unlikely that its demolition and replacement can achieve this. Put in simple terms, if there's no building of historic interest left on the site, it doesn't form part of a wider streetscene, and if one were to review the CA boundary, one would exclude it. It cannot therefore be possible for this proposal to preserve or enhance the character of the CA.

Moreover, the policy expectations as set out within Core Policy 58 of the Wiltshire Core Strategy have not been met and therefore your officers object to the proposals.

In terms of NPPF levels of harm, the harm to the character of the Conservation Area is considered to be at the higher reaches of 'less than substantial harm'. The building merits being considered as an undesignated heritage asset, the harm to which is certainly substantial.

In accordance with the NPPF, Public benefits may be weighed against the harm, but there are no clear public benefits that are not already available through the implementation of the 2019 conversion permission.

The applicants' agents submitted a rebuttal with respect to the Council's Conservation Officer consultation response and the previous Appeal Inspector in respect of the status and quality of the building under consideration, suggesting that the building is not worthy of retention due to the amount of inappropriate extensions and alterations to the property in the past, commenting that Historic England did not consider it worthy of Listing in 2019, suggesting that it is not a building that has retained any long-term local affection due to the

fact that it failed as a public house, and commenting that the building as it stands, with its ungainly extensions, has for some considerable time made a neutral or even negative contribution to the Conservation Area.

They conclude that a replacement dwelling of appropriate scale, design and use of materials would be wholly in keeping with local character and would enhance this part of the conservation area.

It is worth noting, however, that the rebuttal also comments that “*it has not been claimed that the building is beyond economic repair, simply that it is not of sufficient historic or architectural interest to merit retention.*”

Notwithstanding the above comments, it is the opinion of your officers that the demolition of the building, which has a *limited positive contribution to the Conservation Area* in the opinion of the Inspector who determined the last appeal on the site, cannot be justified in light of the clear guidance in the NPPF, as set out above, to prevent the loss of important assets unless there is a very convincing reason why.

It may be more convenient to replace the existing building with a new one, but that in itself is not a valid justification to lose a building asset that contributes towards the special character of the Conservation Area.

The design of the proposed replacement is an improvement on the previous scheme that was dismissed at appeal, but the fact that the design is more acceptable than was previously the case, does not overcome the principal objection to the demolition of the original building, which the applicant’s own heritage consultant states is not beyond economic repair.

### 9.3 Ecology Issues

The application has been supported by detailed ecological assessments and the Council’s ecologist is satisfied with the suggested provision of additional bat refuges and hibernation spaces, both within the main dwelling and in an old stable block to be retained for this purpose, as well as other biodiversity mitigation proposed.

## 10. Conclusion (The Planning Balance)

It is the opinion of your officers that the demolition of the building, which has a *limited positive contribution to the Conservation Area* in the opinion of the Inspector who determined the last appeal, as referenced above, is not justified in light of the clear guidance contained within the NPPF, and in particular paragraph 201, which seeks to prevent the loss of heritage assets unless there is a very convincing justification.

It may be more convenient to replace the existing building with a new one, but that in itself is not a justification to lose a valued building (non-designated heritage asset) within a Conservation Area.

The design of the proposed replacement is an improvement on the previous scheme that was dismissed at appeal, but the fact that the design may be more acceptable than was previously the case, does not overcome the principal objection to the loss of the original building, which the applicant’s own heritage consultant states is not beyond economic repair.

### **RECOMMENDATION - Refuse, for the following reason: -**

**The former Cross Keys Inn makes a positive contribution to the character of the Upper Chute Conservation Area by virtue of its evident age, traditional form and materials, and for its significant historic cultural role within the community. The**

**building does have some unremarkable additions to the rear, and a 20<sup>th</sup> century side extension, but its frontage and forward outbuilding (its timber-clad rustic nature complementing the setting of the rendered inn) are unmistakably early 19<sup>th</sup> century, and contribute towards the special character of the Conservation Area. The proposed complete demolition, and replacement with a new dwelling is unacceptable and could not result in any substantial public benefits that would outweigh that harm.**

**The building remains capable of conversion without complete demolition, and as a consequence, the proposed development fails to meet the provisions of S72 of the Planning (Conservation Areas and Listed Buildings) Act 1990, and is contrary to paragraphs 193 - 196 of the NPPF, and Core Policies 57 and 58 of the Wiltshire Core Strategy.**