



Report to East Buckinghamshire Area Planning Committee

Application Number:	PL/20/0335/FA
Proposal:	Change of use and conversion to two dwellings (C3) to include external and internal alterations and rear extension. Demolition of porch and a shed. Changes to windows and doors and addition of side rooflights and provision of on site parking.
Site Location:	The Swan Public House Blackwell Hall Lane Ley Hill Buckinghamshire HP5 1UT
Applicant:	Mr N and Mrs C Byatt
Case Officer:	Margaret Smith
Ward affected:	Chess Valley
Parish Council:	Latimer & Ley Hill
Valid date:	13 February 2020
Determination date:	28 August 2020
Recommendation:	Refuse permission

1.0 Summary & Recommendation/ Reason for Planning Committee Consideration

- 1.1 This application proposes the change of use of this Public House to residential use and its conversion into two dwellings including internal and external alterations and a 2 storey rear extension. The application also proposes the

subdivision of the existing curtilage of the Public House separating off land in the rear 'half' of the existing curtilage so that it falls outside of the application site and subdividing the remaining 'half' to propose a garden and 3 parking spaces to the front for the proposed Unit on the south side of the building, and 2 parking spaces and an enclosed garden for the proposed Unit on the north side of the building.

- 1.2 The Council's expert Surveyor has considered the application submissions seeking to set out those exceptional circumstances as to why the loss of this Community facility should be allowed, in the context of Core Policy CS29 and has concluded that although the property was advertised at an unrealistically high price, the only genuine interest was for the use of the building as a Day Nursery, which was refused. Given the particular circumstances pertaining to this Public House, the Council's Surveyor has concluded that it would be difficult to defend the retention of this Public House.
- 1.3 However, the Council's Historic Buildings Officer has a fundamental objection to the proposed subdivision of this property and the scale of the proposed extensions and the fact that the proposed change of use would preclude general access to members of the public. The scale of the proposed extensions would also result in an overbearing impact on those adjacent properties to the north and a loss of their residential amenity. As such, this application is recommended for refusal.
- 1.4 Cllr Andrew Garth has called in this application regardless of the recommendation for consideration by committee.
- 1.5 Recommendation – refusal.

2.0 Description of Proposed Development

- 2.1 This application relates to The Swan Public House located on the west side of Blackwell Hall Lane, Ley Hill. The site lies within the open Green Belt and is Grade II listed (listed in 1984) dating from the 16th and 17th century. The building has been in use as a Public House since at least 1843 and prior to this was originally three cottages, with two built in approx. 1520 and the third in 1680. The site is surrounded by mainly residential development but is sited directly next to an existing pub (The Crown Public House). The first-floor of the pub is currently used for ancillary accommodation. The Swan Public House was designated as an Asset of Community Value on the 26th November 2018. Permitted development rights for this building are therefore removed.
- 2.2 The application is accompanied by:
 - a) A Planning Statement

- b) Heritage Assessment
- c) Report by Chartered Surveyor
- d) Design and Access Statement

2.3 Amended plans were received on 22 May, 2020

3.0 Relevant Planning History

PL/20/0336/HB – Pending Consideration - Listed Building Consent for: Change of use and conversion to two dwellings (C3) to include external and internal alterations and rear extension. Demolition of porch and a shed. Changes to windows and doors and addition of side rooflights and provision of on site parking.

CH/2018/0231/HB – Conditional consent 23 April 2019 - Internal alterations to facilitate change of use of The Swan Public House to use class D1 (Non-residential institutions - nursery).

CH/2017/2353/FA – Refused 25 April 2019 - Change of use of The Swan Pub to use class D1 (Non-residential institutions - nursery).

CH/2016/1250/DM – No Objection 26 July 2016 - Prior notification for approval of the demolition of double garages.

CH/1993/1315/HB – Conditional consent 6 January 1994 - Alterations, single storey extension to dining room on south and west elevations, new pergola, external staircase on north elevation to serve first floor flat and additional car parking.

CH/1992/0401/HB - Conditional consent 1 May 1992 - Single storey rear extension to provide store.

CH/1992/0400/FA - Conditional Permission 1 May 1992 - Single storey rear extension to provide store.

CH/1985/0675/HB - Conditional consent 7 June 1985 - Erection of a single storey side extension

CH/1985/0623/FA - Conditional Permission 6 June 1985 - The erection of a single storey side extension

CH/1985/0048/HB – Refused Consent 8 March 1985 - The erection of a single storey side extension for use as an eating area, ancillary to the public house.

CH/1985/0047/FA – Refused Permission 8 March 1985 - The erection of a single storey side extension for use as an existing area, ancillary to the public house.

CH/1982/2045/FA - Conditional Permission - 21 January 1983 - Construction of single storey extension to form internal male and female public toilets and additional beer storage area.

3.1 The development has been screened under the Environmental Impact Assessment Regulations and the local planning authority has concluded that an environmental impact assessment will not be required in this case.

4.0 Summary of Representations

4.1 Letters of objections have been received from 52 addresses and the Campaign for Rear Ale (CAMRA) and the Chiltern Society Heritage Group on the following grounds:

- Principle of loss of Public House;
- Contrary to development plan policies including policy EP10 of the emerging Draft Local Plan and adopted Local Plan GB11;
- Loss of public access to this historic building;
- The Ley Hill Community Pub Ltd have advanced and credible plans for bidding for the pub and running it;
- The existing owners have refused to engage positively with members of the community to enable its continued use as a Public House;
- The pub garden has not been used to its potential, restricted opening hours, precluded dog walkers and hikers;
- The pub has been allowed to run down;
- The asking price for the Pub was too high;
- The marketing was deficient;
- Reference to cricket club licensed sales is erroneous because it is only open when matches are played;
- The Council's Surveyors did not undertake a site visit;
- The application was submitted before Covid 19 and this pub has the advantage of a large rear garden, a front garden and is opposite a common;
- The Council's Surveyors did not appreciate the fact that the Pub did not fit their 3 models because it is frequented by visitors to the countryside and is a community pub;
- There is no substance to claims that The Bellcote/The Lazy Pig has caused business to fall and that is a chain and has had to be rebranded;

- This Public House has been deliberately allowed to decline;
- The Crown and The Swan complemented each other and worked together;
- The owners did not allow a cash buyer to further their interest in purchasing the Pub;
- Loss of employment opportunity for local young people;
- Loss of access by the public to this historic building;
- Loss of a community facility;
- Detrimental to the listed building and Conservation Area;
- Loss of residential amenity to adjoining properties including 65 Blackwell Hall Lane, Crown Cottages.

5.0 Policy Considerations and Evaluation

- National Planning Policy Framework (NPPF), February 2019.
- National Design Guidance, October 2019
- Core Strategy for Chiltern District - Adopted November 2011:
- Chiltern District Local Plan adopted 1 September 1997 (including alterations adopted 29 May 2001), consolidated September 2007 and November 2011.
- Draft Chiltern and South Bucks Local Plan 2036.
- Chiltern and South Bucks Community Infrastructure Levy (CIL) Charging Schedule

Principle and Location of Development

Core Strategy Policies:

CS1 (The spatial strategy),

CS2 (Amount and distribution of residential development 2006-2026),

CS3 (Amount and distribution of non-residential development 2006-2026)

CS29 (Community)

Local Plan Saved Policies:

GB2 (Development in general in the Green Belt)

GB5 (Residential Development in the Green Belt in Settlements As Defined on the Proposals Map)

GB11 (Re-use of existing Non-Residential Buildings in the Green Belt for Residential Use (Class C3)

GB24 (Redevelopment or Change of Use of Buildings used for the provision of Local Community Facilities in the Green Belt)

- 5.1 This application proposes the change of use of this Public House to residential use by way of its conversion into two dwellings. In this connection internal and external alterations are proposed. As such this application proposes the loss of the existing Community Facility which is available to the general public.

- 5.2 Adopted Local Plan policy GB24 states that the change of use of such local community facilities will not be allowed unless a convenient replacement is proposed, which is not applicable to this proposal, or it can be demonstrated that the facility is no longer required for any other community use in the village and adjoining area. Core Policy CS29: Community states that the loss of community facilities will only be permitted in exceptional circumstances.
- 5.3 In this regard, a report has been submitted with this application from a Fellow of the Royal Institution of Chartered Surveyors setting out the marketing of the application property by two agencies as a Public House. The key points raised by this report include the conclusion that the initial asking price was 'optimistic', but that no offers were made, other than one from an individual who wished to use the premises as an office and from an individual who wished to use the property as a day nursery, a planning application was submitted for a proposed change of use in 2018.
- 5.4 That Surveyor's report concludes that the apparent lack of interest to purchase the Public House for the continuation of that use is due to a number of factors including competition from the adjacent Public House 'The Crown' and also the sale of alcoholic liquor and food at the Cricket Club opposite. Other factors highlighted in that report include macro-economic effects such as Brexit, changes in legislation such as an increase in the minimum wage, and increased business costs. This submitted report concludes that in the market and trading conditions at the time of the submission of the application, The Swan is no longer capable of operating profitably and is no longer saleable as a Public House.
- 5.5 To scrutinise the submitted Surveyor's report, the Council has attained its own expert advice in this regard. The Council's Surveyor has similarly advised that the asking price was unrealistic but, nevertheless, it would seem that there was no genuine interest or lower offers, other than as an office or as a Day Nursery, as stated above.
- 5.6 A number of the objections received refer to an apparent failure of the marketing agents to respond to those enquiring about purchasing. The Council's Surveyor has advised that sensitive financial information would only be disclosed to those showing a genuine interest in purchasing, having already visited the premises, and that it would be interest of the marketing agents to secure a relatively quick sale as a Public House. Also it is a fact that following interest by a Day Nursery a planning application was received, indicating that the applicant for that Day Nursery did receive the relevant marketing information.

- 5.7 Consequently, the Council's Surveyor has concluded that this Public House was marketed appropriately, albeit that the asking price was too high, although that is often the case and does not preclude lower offers. The Council's expert has also given particular consideration to the viability of The Swan as a trading entity, having regard to the current condition and layout of the Property, the likely level of business and profit it may potentially generate, and has then determined whether the profit level would be considered sufficient by a potential operator. The Council's expert has concluded that the pub would currently have to be sold within the trade as a 'life-style' business, where a price is determined by reference to the building value with an adjustment for trade. Apparently, such a deal would have to be financed from cash resources as the majority of lenders would expect a loan to be covered by a secure trading position. The Council's expert has concluded that this would be likely to have a detrimental impact on the achievable price and is probably the principal reason that a trade sale has not been achieved.
- 5.8 With regard to viability, the Council's expert has concluded that the limiting factors highlighted make any major investment for business purposes a notably higher-than-average financial risk. Coupled with the costs of potential refurbishment and working capital, the viability of the Property as a public house will be entirely dependent upon the price for which it can be acquired and a consistent minimum level of business. The Council's Surveyor has also concluded that the location of this Public House is such that an operator would have to run a business strongly biased towards food sales, promoted regionally rather than just locally, but he concludes that the entire site does not appear to have sufficient land to provide parking facilities.
- 5.9 Furthermore, the Council's Surveyor considers that the social distancing protocols as a result of Covid 19 will result in the permanent closure of a significant number of public houses, restaurants and similar venues and businesses, and that smaller public houses with significant competition, such as The Swan, will experience the greatest pressure and face the highest risk of closure.
- 5.10 Given the conclusions of the Council's expert advisor, it is noted that the marketing price was unrealistically high, but notwithstanding that it is also noted that there were no offers other than as an office and a Day Nursery. Also, it is clearly in the interest of an agent to secure a sale, but that was not forthcoming.
- 5.11 Many objections have been received regarding the proposed loss of this Public House but given the advice of the Council's own expert advisor, it would be difficult to defend a refusal of this application on the basis that exceptional circumstances have not been raised in this instance.

- 5.12 With regard to the principle of the proposed change of use from a Public House to a Class C3 residential use in the Green Belt, the NPPF states that in principle the re-use of existing permanent and substantially constructed buildings may be appropriate development providing they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. This building is of permanent and substantial construction and the proposed change of use would be likely to result in less vehicular activity, fewer parked cars within the site and as such would preserve the openness of the Green Belt and its purposes.
- 5.13 In order to convert the existing Public House into 2 dwellings, extensions are proposed to the rear and northern side following the removal of the existing rear conservatory and rear fire escape. The proposed extensions would introduce new built development at 1st floor level above the existing kitchen-diner and former conservatory and the eaves and ridge height of that extension would align with that of the existing bathroom. This extension would not be needed if the building were proposed to be converted into 1 residential unit. Furthermore, policy GB11 considers extensions to statutorily listed buildings to be acceptable in principle if the conversion would facilitate its retention but would not harm its special interest. This proposed extension is not considered essential to facilitate the retention of this building and it would harm its special interest, as such the proposed extension conflicts with policy GB11.

Transport matters and parking

Core Strategy Policies:

CS25 (Dealing with the impact of new development on the transport network)

CS26 (Requirements of new development)

Local Plan Saved Policies:

TR2 (Highway aspects of planning applications throughout the district)

TR3 (Access and road layout throughout the district)

TR11 (Provision of off-street parking for developments throughout the district)

TR12 (Relaxation of parking standards throughout the district)

TR14 (Retention of existing areas of off-street vehicle parking throughout the district)

TR15 (Design of parking areas throughout the district)

TR16 (Parking and manoeuvring standards throughout the district)

- 5.14 The Highways Officer has raised no objection to these proposals, which would result in a reduction in vehicular activity.
- 5.15 The amended proposals include the provision of 2 off-street parking spaces for the dwelling proposed to occupy the northern part of this building and 3 off-street parking spaces for the dwelling proposed to occupy the southern part of

this building. Manoeuvring into the 2 spaces would only be possible in the event of the proposed gates being opened and manoeuvring into the 3 spaces would be frustrated by the fabric of the building opposite the 3rd space, but there is ample room to provide on-street parking for the 2 units proposed. As such, the proposal would be acceptable in highways and parking terms.

Raising the quality of place making and design

Core Strategy Policies:

CS4 (Ensuring that the development is sustainable)

CS20 (Design and environmental quality)

CS22 (Chilterns Area of Outstanding Natural Beauty)

CS29 (Community)

CS32 (Green infrastructure)

Local Plan Saved Policies:

GC1 (Design of development throughout the district)

GC4 (Landscaping throughout the district)

GC14 (Access for disabled people to developments used by the public throughout the district)

H11 (Distance between flank elevation(s) of a proposed multi-storey dwelling and boundary of dwelling's curtilage throughout the district)

H13 (Extensions to dwellings in the built-up areas excluded from the Green Belt and in Policy GB4 and GB5 areas in the Green Belt - general policy)

H15 (Design and siting of extensions throughout the district)

H16 (Distance between multi-storey or upper floor side and/or rear extensions and boundary of dwelling curtilage throughout the district)

H17 (Distance between single storey side extensions and boundary of dwelling curtilage throughout the district)

H18 (Dormer windows on dwellings throughout the district)

H20 (Ancillary residential buildings (domestic garages, workshops, etc.) in the built-up areas excluded from the Green Belt)

5.16 This application proposes the change of use of this Public House to 2 residential units. As stated above, in order to convert the existing Public House into 2 dwellings, extensions are proposed to the rear and northern side following the removal of the existing rear conservatory and rear fire escape. The proposed extensions would introduce new built development at 1st floor level above the existing kitchen-diner and former conservatory and the eaves and ridge height of that extension would align with that of the existing bathroom. This extension would not be needed if the building were proposed to be converted into 1 residential unit. Furthermore, policy GB11 considers extensions to statutorily listed buildings to be acceptable in principle if the conversion would facilitate its retention but would not harm its special interest. This proposed extension is not considered essential to facilitate the retention of this building and it would harm

its special interest as cited by the Council's Historic Buildings Officer, as such the proposed extension conflicts with policy GB11.

5.17 Also, policy GC1 of the adopted Local Plan states that extensions to existing buildings should be designed to respect the scale and proportions of the host building but, in conflict, with this policy the proposed extension would be disproportionate to the scale and proportions. The existing rear additions are subordinate to the main frontage building, whereas the proposed extension would not be viewed as being subservient.

5.18 It is also noted that this application proposes the subdivision of this site into 3 planning units, by virtue of the erection of an enclosure within the curtilage of the listed building to separate that rear section from the application site. These enclosures within the curtilage of a listed building do not constitute permitted development and detract from the setting and character of this listed building.

Amenity of existing and future residents

Local Plan Saved Policies:

GC3 (Protection of amenities throughout the district)

GC7 (Noise-generating developments throughout the district)

GC8 (Residential and other noise sensitive development in areas of high noise level throughout the district)

H12 (Private residential garden areas throughout the district)

H13 (Extensions to dwellings in the built-up areas excluded from the Green Belt and in Policy GB4 and GB5 areas in the Green Belt - general policy)

H14 (Safeguarding the amenities of neighbours in relation to extensions throughout the district)

5.19 Objections have been received pertaining to the resultant impact on the amenities of those adjacent properties to the north comprising 65 Blackwell Hall Lane and Crown Cottages. Currently, at 1st floor level there is a west facing bathroom window, a fire escape staircase and staircase window that afford angled views towards the rear of the garden of the Crown Cottage dwellings, whereas the proposals would result in the introduction of the sole windows serving 2 bedrooms at a distance of only 6 and 7 metres from the rear of the garden of the Crown Cottage dwellings and 14 metres from the corner of the garden of 65 Blackwell Hall Lane.

5.20 In addition, the proposed development would result in an obtrusive 2 storey elevation only 4m to 7m to the south of the rear boundary of the Crown Cottages gardens, which would be overdominant, although it would be difficult to substantiate a reason for refusal based on a loss of sunlight and daylight.

- 5.21 The proposed units would have sufficient private amenity space, although the proposed curtilages have been artificially created and their limited size is as a result of the application choosing to separate off the rear part of the site as a separate planning unit, which would have a retained lawful use as a Public House but with no associated building.
- 5.22 These proposals are considered unacceptable on the basis of the proposed impact on the amenities of the neighbouring properties.

Community facilities

Core Strategy Policies:

CS29 (Community)

Local Plan Saved Policies:

GB24 (Redevelopment or change of use of buildings used for the provision of local community facilities in the Green Belt)

- 5.23 As considered in detail above, many objections have been received regarding the proposed loss of this Public House but given the advice of the Council's own expert advisor, it would be difficult to defend a refusal of this application on the basis that exceptional circumstances have not been raised in this instance.

Historic environment (or Conservation Area or Listed Building Issues)

Core Strategy Policies:

CS4 (Ensuring that development is sustainable)

Local Plan Saved Policies:

LB1 (Protection of special architectural or historic interest of Listed Buildings throughout the district)

LB2 (Protection of setting of Listed Buildings throughout the district)

LB3 (Demolition of Listed Buildings throughout the district)

LB4 (Change of use of Listed Buildings throughout the district)

- 5.24 The Council's Conservation and Design Officer has considered these proposals and has advised the following:

'The heritage assessment is the impact on the significance the special historic and architectural interest of the listed building.

Significance

The Swan PH dates from the 16th century. The northern two timber framed bays were constructed in 1520, with the southern brick wing added in 1680. Part of the building was used as a PH from at least 1843, and by 1881, the entire

building was used as a pub. The building sits on the edge of the common; an area of public open space on the edge of the village, and views across the green to the building and its open rural setting are part of its significance.

This attractive composition of historic buildings is prominently located facing onto the common. The earlier timber framed building has a timber fronted gable to the right with a thin brick 17th century stack behind, with the main entrance in the central bay. To the left/ south is the later brick wing, the gable end of which faces the road. Although the building has been altered over the years, the building retains many original features including the exposed timber frame, a narrow winding staircase, original plan form and many old doors etc.

The building has also been designated as 'an asset of community value.'

Description of proposed works

This building has been in use as a public house since at least 1843, but following the refusal of the application last year for the change of use to a children's nursery, it is now proposed to divide the property in half to provide two semi-detached houses.

The application as originally submitted also included the addition of five allocated parking spaces in the front garden, and a single story extension, including a conservatory at the rear of the northern cottage, a new rooflight on the modern front extension on the front/south side, and the rear garden of the public house had been subdivided to leave a plot at the rear and then further subdivided to provide small rear gardens for the two cottages.

Amended plans submitted on 22nd May proposed the relocation of the parking for the northern cottage to the rear and also proposed a substantial two storey extension to the northern cottage to be located at the rear, but there are still three parking spaces located within the front garden.

Assessment

Following the refusal of the applications to use the building as a nursery, it is now proposed to convert the existing public house to two semi-detached houses. There are three staircases in the building at present; one is an ancient narrow winding stair alongside the main stack a second in the northern part of the building is an external fire escape. The third is in the southern side of the building and its position appears to fit in with the original plan form from evidence of surviving doors etc. To facilitate the new use a replacement staircase is proposed in the rear of the brick southern wing for the use of the

southern cottage, but it was designed for the previously proposed nursery use and appears to be out of scale with the cottage. Consideration should be given to retaining all or part of the existing southern staircase and first floor original plan form. It was originally proposed that the northern cottage would use the ancient, narrow winder stair the fire escape on the north elevation would be retained, with just a conservatory extension at the west end of the rear wing of the northern cottage. However, the amended plans submitted in May proposed the removal of this unsightly structure and proposed a new internal staircase, in the existing two story rear wing of the northern cottage, however, one again too large for the scale of the cottage.

The amended plans however, also include a substantial two storey extension beyond the relocated staircase, to provide an additional bedroom and family bathroom at first floor level, rather than the subdivision of the older front part of the building into small rooms and corridors. The rear wing of the proposed southern cottage finishes at the west end with a single storey lean-to, however, it is proposed to extend the rear wing of the proposed northern cottage with a two storey extension around 3.5 metres longer than the adjoining two storey rear wing; the resulting very long extension would be out of scale with the original building. The eaves height of the proposed northern rear wing is also significantly higher than the southern wing, giving an awkward juxtaposition and an awkward valley gutter junction. The design of the proposed two storey extension is considered bulky and incongruous, not helped by the lower ground levels towards the rear of the property. The eaves are higher than all the adjoining roofs (except the wing it is attached to), and the normal convention of subservience for extensions to listed buildings has been disregarded. A jettied? brick gable has been added in at first floor on the north elevation, presumably to break up the long expanse of the rear wing, but again this is an incongruous feature which would detract from the significance of the historic building. The proposed new windows are considered too large and not in character with the historic building. This extension would be viewed with the main listed building and would be particularly prominent in the gap between this and the adjoining public house and the new building would block views of the countryside beyond.

It is proposed to add a new lantern light on top of the concealed flat roof of the existing toilet block. However, no existing sections have been provided and it is unclear if the lantern will be visible. This would not be considered acceptable as it would draw attention to the flat roof.

The subdivision/ reduction in the rear garden of the property is also a concern.

No application has been made for the proposed fencing to subdivide the property and a separate new property on the rear plot may cause harm to the setting of the listed building. There is also a concern that not sufficient space has

been retained for two properties to function properly. Three new car parking spaces are proposed in the currently landscaped side/ front garden; these will be intrusive and cause harm to the open countryside setting of the listed building and the enjoyment of the common. All the allocated parking should be located at the rear. It is understood that three parking spaces will be required for both properties. Any other new structures, eg bin stores and cycle sheds should all be located in the rear garden and will require planning permission.

It is understood that the conversion of this building from a public house to two residential properties would be considered by Building Regulations to be a 'change of use' requiring the building to be upgraded for means of escape and for noise and thermal upgrading. No evidence has been provided by the applicants that this will not be the case, and upgrading the building eg to comply with modern thermal efficiency targets or to provide fire and sound insulation between the properties could cause harm to the significance of the listed building.

Even if the conversion of this public house and 'asset of community value' to one or two residential units could be undertaken without physical harm to the significance of the designated heritage asset, the sub-division and change of use of this historic public house to a non-public use is a concern as this social and community link with the area is an important part of the significance of the building the loss of which would cause 'less than substantial harm' to the significance of the designated heritage asset.

It is considered that the scale and design of the proposed extension, the alterations, loss of historic fabric, loss of the original plan form, loss of the social and community significance and the harm to the setting due to the proposed allocated parking and fencing etc, would cause 'less than substantial harm' to the significance of the designated heritage asset. Paragraph 196 therefore applies; in applying this policy/ guidance it is considered that no public benefits outweigh that harm. Paragraphs 184/189/192/193 have all also been considered in this advice.'

Infrastructure and Developer Contributions

Core Strategy Policies:
CS31 (Infrastructure)

5.25 The development is a type of development where CIL would be chargeable.

6.0 Weighing and balancing of issues / Overall Assessment

6.1 In determining the planning application, section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In addition, Section 143 of the Localism Act amends Section 70 of the Town and Country Planning Act relating to the determination of planning applications and states that in dealing with planning applications, the authority shall have regard to:

- a. Provision of the development plan insofar as they are material,
- b. Any local finance considerations, so far as they are material to the application (such as CIL if applicable), and,
- c. Any other material considerations

6.2 As set out above it is considered that the proposed development would not accord with adopted Local Plan policies GC1, GC3, GB2, GB11, LB1, LB2, and LB4 and Core Policy CS20.

6.3 Human Rights

The following recommendation is made having regard to the above and also to the content of the Human Rights Act 1998.

7.0 Working with the applicant / agent

7.1 In accordance with paragraph 38 of the NPPF (2019) the Council approach decision-taking in a positive and creative way taking a proactive approach to development proposals focused on solutions and work proactively with applicants to secure developments. As such, the opportunity was given for amended proposals to be submitted but those received are still unacceptable to the Council as set out above.

In this instance

- The applicant/agent chose not to seek any pre-application advice,
- the applicant/agent was updated of issues after the initial site visit,
- The applicant was provided the opportunity to submit amendments to the scheme/address issues.
- The application was determined without delay.
- The applicant was informed/ advised how the proposal did not accord with the development plan, that no material considerations are apparent to outweigh these matters and provided the opportunity to amend the application or provide further justification in support of it.

8.0 Recommendation: Refuse

1. It is considered that the scale and design of the proposed extension, the alterations, loss of historic fabric, loss of the original plan form, loss of the social and community significance and the harm to the setting due to the proposed allocated parking and fencing etc, would cause harm to the significance of the designated heritage asset. Paragraph 196 therefore applies, but in applying this policy/ guidance it is considered that no public benefits outweigh that harm. Consequently, the proposal conflicts with Section 16 of the National Planning Policy Framework (NPPF), the Planning (Listed Building and Conservation Areas) Act 1990 and policies LB1 and LB2 of the Chiltern District Local Plan adopted 1 September 1997 (including alterations adopted 29 May 2011), consolidated September 2007 and November 2011 and 'Managing Significance in Decision-Taking in the Historic Environment – 2015, and Making Changes to Heritage Assets – 2016.
2. It is considered that the scale and design of the proposed extension would be of a scale, height and design that is out of keeping with this Grade II Listed Building. As such, the proposed development would appear overly obtrusive and would adversely affect the character and appearance of the area contrary to the National Planning Policy Framework, the National Design Guide, Policy GC1, LB1 and LB2 of The Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 and November 2011, Policy CS20 of The Core Strategy for Chiltern District, Adopted November 2011 and policies DM DP13 of the emerging Chiltern and South Bucks District Local Plan.
3. It is considered that the scale and design of the proposed extension would be of a scale, height and design that would appear overly obtrusive and would adversely affect the residential amenities of 1 – 5 Crown Cottages contrary to the National Planning Policy Framework, the National Design Guide, Policy GC1 and GC3 of The Chiltern District Local Plan Adopted 1 September 1997 (including alterations adopted 29 May 2001) Consolidated September 2007 and November 2011, Policy CS20 of The Core Strategy for Chiltern District, Adopted November 2011 and policies DM DP13 and DM DP 16 of the emerging Chiltern and South Bucks District Local Plan.

APPENDIX A: Consultation Responses and Representations

Latimer and Ley Hill Parish Council: Objection as follows:

'Thank you for consulting us in respect of the above application. I write to confirm that Latimer & Ley Hill Parish Council wishes to strongly object to the above two planning applications on the following grounds:

- Contrary to Development Plan
- Detriment to Listed Building
- Other Loss of Amenities
- Other non-planning reasons
- Traffic / Parking

No rationale has been put forward to demonstrate the exceptional circumstances of this case. The previous application avoided this Policy as it was considered the Nursery also fell under the bracket of a 'community facility' however this is not the case this time round. Local Plan Policy GB11 states The Council will only consider the change of use of a non residential, listed building to residential as not 'inappropriate development in the Green Belt' where the conversion would not cause harm to its special interest. This Policy does not require demonstration of 'significant' or 'more than substantial' harm. It just refers to the word 'harm'. The Applicant's Heritage Assessment confirms this will be the case in Paragraph 4.2 'The loss of its current use would mean that the communal and social connection The Swan has with the Ley Hill area would be lost and so would result in less than substantial harm'.

Local Plan Policy GB24 states 'In the Green Belt the Council will not allow the redevelopment or change of use of a building or land which is in use, or was last used for, local community purposes as defined in Policy GB23, unless: a replacement building or land can be provided in an equally convenient location that complies with Policy GB23; or it can be demonstrated to the Council that the facility is no longer required for any other community use in the village and adjoining area where the facility is located.' Notwithstanding the marketing and viability evidence submitted and given the strong local opposition to the application we feel that they have not demonstrated the facility is 'no longer required' for community use in the village.

The new Local Plan 2036 includes two relevant Policies:

- Policy DP2 highlights the importance of the social and cultural benefits of Designated Heritage Assets
- Policy EP10 states permission will be granted for Change of Use from a public house providing:
 - all reasonable efforts have been made to market the premises for its existing use in accordance with Appendix EP1 and no other potential occupier can be found.
 - all reasonable efforts have been made to improve the operation and management of the business or facility.
 - evidence of non-viability is submitted.
 - it is demonstrated that, in the case of the loss of a public house, suitable alternative public houses exist to meet the needs of the local community.

Lastly, National Planning Policy requires any harm to Listed Buildings to be clearly and convincingly justified:

- National Planning Policy Framework (NPPF) – Paragraph 194 requires any harm to a designated heritage asset to be clearly and convincingly justified.
- National Planning Policy Framework (NPPF) – Paragraph 196 requires any less than substantial harm to a designated

heritage asset to be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. In Paragraph 4.2 of The Heritage Assessment it is suggested that the harm caused by the loss of the social and communal connection to Ley Hill 'will be outweighed by the benefit of converting the building back to its original use as cottages.' The Parish Council strongly disagrees with this reasoning and apparent justification: o The Swan has been a pub for the entirety of the village's current living memory (i.e. well over 140+ years at least) therefore the supposed 'beneficiaries' of this change of use have never known it as cottages and there is no demand or appetite for it, in fact quite the opposite.

- The building was in use as a pub when it was Listed as a Designated Heritage Asset (in 1984) and the function 'Public House' is included in the text of the Listing.
- The pub (including the function not the just the building fabric) has been approved as an Asset of Community Value (ACV).
- Building uses change over time and the Heritage Value of a building must take this into account. The social and cultural value of The Swan is heavily embedded in the function of the pub. No-one would argue the Tate Modern would 'benefit' by being converted back into an oil-fired Power Station or that the O2 would 'benefit' from returning to a single large exhibition hall just because they were originally built as such. The original use of The Swan as 'cottages' is convenient to this application but is not a show-stopper in terms of heritage value assessment.
- As made clear by the strong local opposition and the different uses proposed (first a day nursery and now residential) this and the previous application have clearly been driven by commercial motives, not by a commitment to public benefits or recognising the value of the socio-cultural importance of the building to the village.
- The Swan, a Grade II listed building, has been an ale house since the 16th century and a pub since the mid -1800s when pubs were first designated
- It has been very much the community hub of the village over the years and extremely popular with residents, village clubs e.g. Cricket and Rotary Clubs and parents and staff from local schools
- The Swan has had a Darts, Quiz, Cribbage and Domino teams in the past attracting both locals and visitors to the pub and offering a valuable social service to people
- The location of the pub attracts walkers and cyclists to the pub for drinks, lunches etc
- The Annual Ley Hill Music and Beer festival held over 3 days during August Bank Holiday is organised by the Swan in conjunction with the neighbouring Crown public house. This is a nationally acclaimed festival and attracts thousands of visitors and thousands of pounds to both businesses.
- In the past both pubs, the Swan and the Crown have worked very well together as they do presently in local villages such as Chenies and Little Missenden.
- The community's negative response to the previous change of use into a nursery was overwhelming. The comments posted for this new application reiterate this strength of feeling and a commitment to support The Swan in the future under new management.
- Over the last two years the Parish Council has become very active in the village organising social groups for locals such as Coffee and Chat mornings. Such meetings could be held in the Swan as well as some of our informal meetings.
- Over the years the Swan has employed many local teenagers, giving them a local start on the employment ladder. o The Parish Council has recently secured Large Project Funding

from Chiltern District Council to add seating to the area around the Beacon, very close to the Swan and to install an Activity Trail in the wooded area along the golf fairway very close to The Swan. These additions to the village will attract walkers, families, visitors to the pub as they will seek out food and drink.

- The Parish Council would question whether the present landlord is maximising the potential of the pub. He seems to be making little effort to make the pub viable.

In Conclusion, the Parish Council object to these two planning applications and feel that our concerns demonstrate that planning permission must be refused.'

And

'Latimer & Ley Hill Parish Council wishes to strongly object to the above two planning applications on the following grounds: o Contrary to Development Plan o Detriment to Listed Building o Other Loss of Amenities o Other non-planning reasons o Poor Design o Traffic / Parking Structural Details

- The plans show reasonable areas for living and dining spaces, but the bedrooms are well below current standards for single and double bedrooms.
- 2 • The levels of natural daylight within the lounges of both houses will not meet current standards as the windows are small.
- The access stair to the first floor from the lounge of House 2 does not comply with Building Regulations of Disability Standards.
- Bedroom 4 in House 2 has very poor outlook and aspect with poor natural light.
- The car parking area at the front of the property will spoil the appearance and character of this beautiful building.

Loss of a community asset Core Strategy Policy CS29 states The Council will 'only permit the loss of community facilities in exceptional circumstances'. However, no rationale has been put forward to demonstrate the exceptional circumstances of this case. The previous application avoided this Policy as it was considered the Nursery also fell under the bracket of a 'community facility' however this is not the case this time round. Local Plan Policy GB11 states The Council will only consider the change of use of a nonresidential, listed building to residential as not 'inappropriate development in the Green Belt' where the conversion would not cause harm to its special interest. This Policy does not require demonstration of 'significant' or 'more than substantial' harm. It just refers to the word 'harm'. The Applicant's Heritage Assessment confirms this will be the case in Paragraph 4.2 'The loss of its current use would mean that the communal and social connection The Swan has with the Ley Hill area would be lost and so would result in less than substantial harm'. Local Plan Policy GB24 states 'In the Green Belt the Council will not allow the redevelopment or change of use of a building or land which is in use, or was last used for, local community purposes as defined in Policy GB23, unless: a replacement building or land can be provided in an equally convenient location that complies with Policy GB23; or it can be demonstrated to the Council that the facility is no longer required for any other community use in the village and adjoining area where the facility is located.' Notwithstanding the marketing and viability evidence submitted and given the strong local opposition to the application we feel that they have not demonstrated the facility is 'no longer required' for community use in the village.

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- In the past both pubs, the Swan and the Crown have worked very well together as they do presently in local villages such as Chenies and Little Missenden.
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- The Parish Council would question whether the present landlord is maximising the potential of the pub. He seems to be making little effort to make the pub viable.

In Conclusion, the Parish Council object to these two planning applications and feel that our concerns demonstrate that planning permission must be refused.'

Conservation and Design Officer: Objection

The heritage assessment is the impact on the significance the special historic and architectural interest of the listed building.

Significance

The Swan PH dates from the 16th century. The northern two timber framed bays were constructed in 1520, with the southern brick wing added in 1680. Part of the building was used as a PH from at least 1843, and by 1881, the entire building was used as a pub. The building sits on the edge of the common; an area of public open space on the edge of the village, and views across the green to the building and its open rural setting are part of its significance.

This attractive composition of historic buildings is prominently located facing onto the common. The earlier timber framed building has a timber fronted gable to the right with a thin brick 17th century stack behind, with the main entrance in the central bay. To the left/south is the later brick wing, the gable end of which faces the road. Although the building has been altered over the years, the building retains many original features including the exposed timber frame, a narrow winding staircase, original plan form and many old doors etc.

The building has also been designated as 'an asset of community value.'

Description of proposed works

This building has been in use a public house since at least 1843, but following the refusal of the application last year for the change of use to a children's nursery, it is now proposed to divide the property in half to provide two semi-detached houses.

The application as originally submitted also included the addition of five allocated parking spaces in the front garden, and a single story extension, including a conservatory at the rear of the northern cottage, a new rooflight on the modern front extension on the front/south side, and the rear garden of the public house had been subdivided to leave a plot at the rear and then further subdivided to provide small rear gardens for the two cottages.

Amended plans submitted on 22nd May proposed the relocation of the parking for the northern cottage to the rear and also proposed a substantial two storey extension to the northern cottage to be located at the rear, but there are still three parking spaces located within the front garden.

Assessment

Following the refusal of the applications to use the building as a nursery, it is now proposed to convert the existing public house to two semi-detached houses. There are three staircases in the building at present; one is an ancient narrow winding stair alongside the main stack a second in the northern part of the building is an external fire escape. The third is in the southern side of the building and its position appears to fit in with the original plan form from evidence of surviving doors etc. To facilitate the new use a replacement staircase is proposed in the rear of the brick southern wing for the use of the southern cottage, but it was designed for the previously proposed nursery use and appears to be out of scale with the cottage. Consideration should be given to retaining all or part of the existing southern staircase and first floor original plan form. It was originally proposed that the northern cottage would use the ancient, narrow winder stair the fire escape on the north elevation would be retained, with just a conservatory extension at the west end of the rear wing of the northern cottage. However, the amended plans submitted in May proposed the removal of this unsightly structure and proposed a new internal staircase, in the existing two story rear wing of the northern cottage, however, one again too large for the scale of the cottage.

The amended plans however, also include a substantial two storey extension beyond the relocated staircase, to provide an additional bedroom and family bathroom at first floor level, rather than the subdivision of the older front part of the building into small rooms and corridors. The rear wing of the proposed southern cottage finishes at the west end with a single storey lean-to, however, it is proposed to extend the rear wing of the proposed northern cottage with a two storey extension around 3.5 metres longer than the adjoining two storey rear wing; the resulting very long extension would be out of scale with the

original building. The eaves height of the proposed northern rear wing is also significantly higher than the southern wing, giving an awkward juxtaposition and an awkward valley gutter junction. The design of the proposed two storey extension is considered bulky and incongruous, not helped by the lower ground levels towards the rear of the property. The eaves are higher than all the adjoining roofs (except the wing it is attached to), and the normal convention of subservience for extensions to listed buildings has been disregarded. A jettied brick gable has been added in at first floor on the north elevation, presumably to break up the long expanse of the rear wing, but again this is an incongruous feature which would detract from the significance of the historic building. The proposed new windows are considered too large and not in character with the historic building. This extension would be viewed with the main listed building and would be particularly prominent in the gap between this and the adjoining public house and the new building would block views of the countryside beyond.

It is proposed to add a new lantern light on top of the concealed flat roof of the existing toilet block. However, no existing sections have been provided and it is unclear if the lantern will be visible. This would not be considered acceptable as it would draw attention to the flat roof.

The subdivision/ reduction in the rear garden of the property is also a concern.

No application has been made for the proposed fencing to subdivide the property and a separate new property on the rear plot may cause harm to the setting of the listed building. There is also a concern that not sufficient space has been retained for two properties to function properly. Three new car parking spaces are proposed in the currently landscaped side/ front garden; these will be intrusive and cause harm to the open countryside setting of the listed building and the enjoyment of the common. All the allocated parking should be located at the rear. It is understood that three parking spaces will be required for both properties. Any other new structures, eg bin stores and cycle sheds should all be located in the rear garden and will require planning permission.

It is understood that the conversion of this building from a public house to two residential properties would be considered by Building Regulations to be a 'change of use' requiring the building to be upgraded for means of escape and for noise and thermal upgrading. No evidence has been provided by the applicants that this will not be the case, and upgrading the building eg to comply with modern thermal efficiency targets or to provide fire and sound insulation between the properties could cause harm to the significance of the listed building.

Even if the conversion of this public house and 'asset of community value' to one or two residential units could be undertaken without physical harm to the significance of the designated heritage asset, the sub-division and change of use of this historic public house to a non-public use is a concern as this social and community link with the area is an important part of the significance of the building the loss of which would cause 'less than substantial harm' to the significance of the designated heritage asset.

It is considered that the scale and design of the proposed extension, the alterations, loss of historic fabric, loss of the original plan form, loss of the social and community significance

and the harm to the setting due to the proposed allocated parking and fencing etc, would cause 'less than substantial harm' to the significance of the designated heritage asset. Paragraph 196 therefore applies; in applying this policy/ guidance it is considered that no public benefits outweigh that harm. Paragraphs 184/189/192/193 have all also been considered in this advice.

Heritage Policy Assessment

The Planning (Listed Building and Conservation Areas) Act 1990

The proposals would not preserve the architectural and historic interest of the listed building and therefore does not comply with sections 16/66 of the Act.

NPPF

The proposal would cause harm to the significance of the designated heritage asset. (listed building)

Local Plan

The proposals do not comply with the Chiltern District Council adopted local plan (consolidated Nov 2011) LB 1, LB 2

Historic England Guidance

Managing Significance in Decision-Taking in the Historic Environment- 2015, and Making Changes to Heritage Assets- 2016

Conclusion

For the reasons given above it is felt that in heritage terms:

That the application does not comply with the relevant heritage policy and therefore it should be refused for this reason.

Highways: No objection in principle subject to the imposition of 1 condition and 2 informatives.

Refuse and Recycling: No objections.

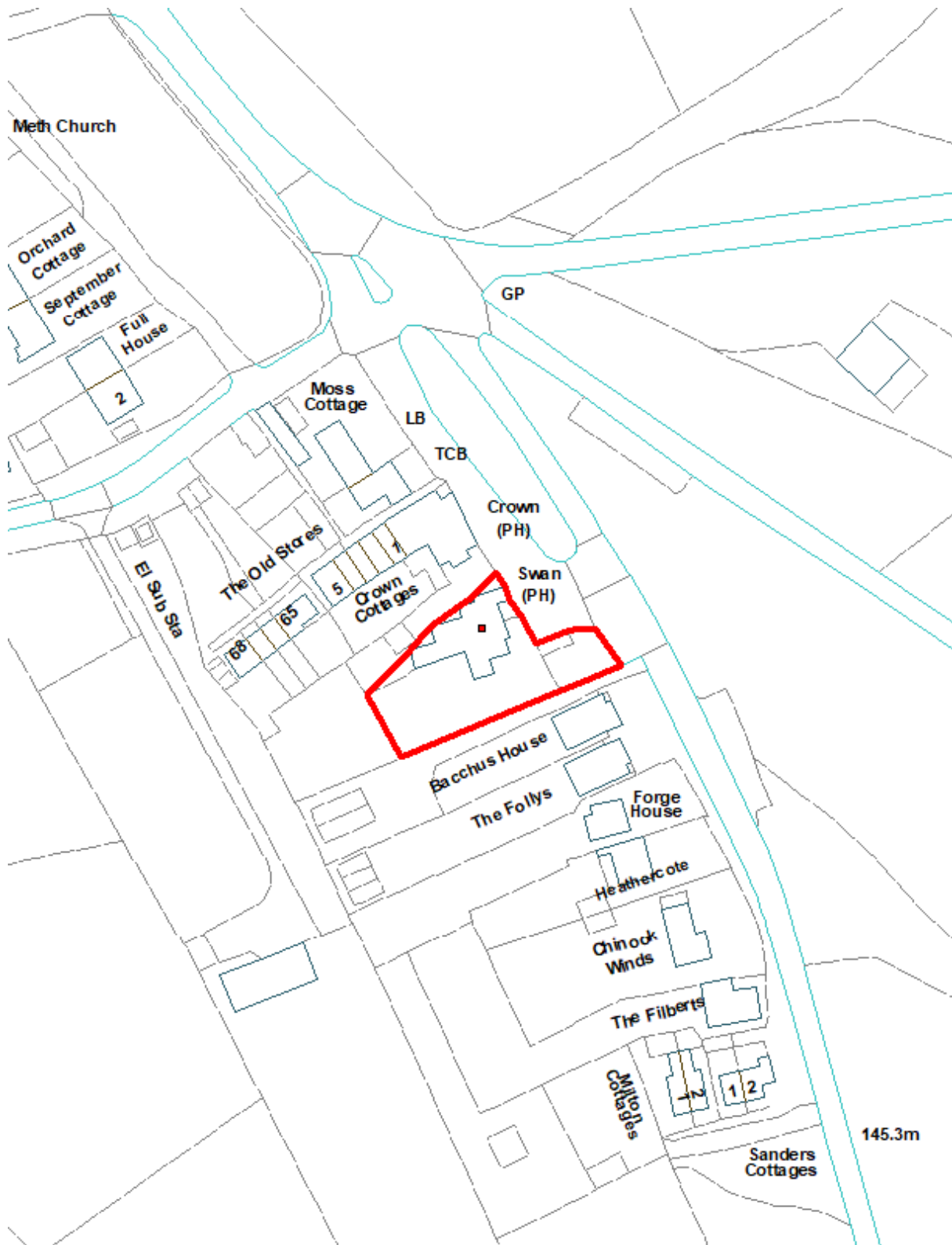
Access for the Disabled: No objections.

Letters of objections have been received from 52 addresses and the Campaign for Rear Ale (CAMRA) and the Chiltern Society Heritage Group on the following grounds:

- Principle of loss of Public House;
- Contrary to development plan policies including policy EP10 of the emerging Draft Local Plan and adopted Local Plan GB11;
- Loss of public access to this historic building;
- The Ley Hill Community Pub Ltd have advanced and credible plans for bidding for the pub and running it;
- The existing owners have refused to engage positively with members of the community to enable its continued use as a Public House;

- The pub garden has not been used to its potential, restricted opening hours, precluded dog walkers and hikers;
- The pub has been allowed to run down;
- The asking price for the Pub was too high;
- The marketing was deficient;
- Reference to cricket club licensed sales is erroneous because it is only open when matches are played;
- The Council's Surveyors did not undertake a site visit;
- The application was submitted before Covid 19 and this pub has the advantage of a large rear garden, a front garden and is opposite a common;
- The Council's Surveyors did not appreciate the fact that the Pub did not fit their 3 models because it is frequented by visitors to the countryside and is a community pub;
- There is no substance to claims that The Bellcote/The Lazy Pig has caused business to fall and that is a chain and has had to be rebranded;
- This Public House has been deliberately allowed to decline;
- The Crown and The Swan complemented each other and worked together;
- The owners did not allow a cash buyer to further their interest in purchasing the Pub;
- Loss of employment opportunity for local young people;
- Loss of access by the public to this historic building;
- Loss of a community facility;
- Detrimental to the listed building and Conservation Area;
- Loss of residential amenity to adjoining properties including 65 Blackwell Hall Lane, Crown Cottages.

APPENDIX B: Site Location Plan - PL/20/0335/FA



Do not scale – this map is indicative only

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